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ABSTRACT

In this government publication, discussion centers on the effect of proposed federal regulations on social services programs, specifically day care services. (CS)

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OVERSIGHT HEARING

BEFORE THE

SELECT SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

SOCIAL AND REHABILITATION SERVICES REGULATIONS
AS THEY AFFECT CHILD CARE

HEARING HELD IN WASHINGTON, D.C., MARCH 15, 1973

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

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SOCIAL AND REHABILITATION SERVICES

THURSDAY, MARCH 15, 1973

House of Representatives,
Select Subcommittee on Education, of the
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to recess, at 2:30 p.m. in room 2175, Rayburn Building, Hon. John Brademas, chairman, presiding.

Members present: Representatives Brademas, Mink, Meeds, Lehman, and Peyser.

Staff members present: Jack G. Duncan, counsel, and Christine Orth, assistant to the counsel.

[From Federal Register, Feb. 16, 1973]

Department of Health, Education, and Welfare

Social and Rehabilitation Service

[45 CFR Parts 220, 221, 222, and 225]

SERVICE PROGRAMS FOR FAMILIES AND CHILDREN AND FOR AGED, BLIND, OR DISABLED INDIVIDUALS: TITLES I, IV (PARTS A AND B), X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

Notice of proposed rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The amendments in general revise, combine and transfer to a new Part 221 the regulations for the Family Services and Adult Services programs (in Parts 220 and 222), and purchase of service (in Part 226). The revisions eliminate several administrative requirements; reduce the number of required services—in recognition of the limitation on Federal funds available for service expenditures—and increase the number of optional services; specify the goals to which services must be directed; clarify the State agency's responsibility for determination and redetermination of eligibility for services shorten the period of eligibility for former and potential recipients; amend the provisions on Federal financial participation to add the limitations imposed by recent legislation and to clarify the proper scope of Federal funding; and require written agreements for purchases of services.

The proposed regulations do not affect current provisions in Part 220 applicable to the work incentive program (WIN) and to child welfare services (CWS). Amendments to those portions of Part 220 will be published separately.

It is the intent of the Department to maintain in the final regulations the effective dates that are specified throughout the proposed amendments.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC, on or before March 19, 1973. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202—963-7361).

Dated: February 12, 1973.

PHILIP J. RUTLEDGE,
Acting Administrator, Social and Rehabilitation Service.

Approved: February 13, 1973.

CASPAR W. WEINBERGER,
Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended as follows:

PART 220 [AMENDED]

(1) Part 220 is revoked, except for §§ 220.35, 220.36, and 220.61(g) (relating to the WIN program under title IV–A of the Social Security Act), and §§ 220.40, 220.49, 220.55, 220.56, 220.62, and 220.65(b), and Subpart D (relating to the CWS program under title IV–B of the Act). The content of the revoked provisions is revised and transferred to a new Part 221, which, to the extent indicated therein, shall be applicable to the WIN and CWS programs under such Part 220.

PARTS 222, 226 [REVOKED]

(2) Parts 222 and 226 are revoked, and their content is revised and transferred to the new Part 221.

PART 221—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN AND FOR AGED, BLIND, OR DISABLED INDIVIDUALS: TITLES I, IV (PARTS A AND B), X, XIV, XVI OF THE SOCIAL SECURITY ACT

(3) Part 221 is added to Chapter II to read as set forth below.

Subpart A—Requirements for Service Programs

Sec.
221.0 Scope of programs.
221.1 General.
221.2 Organization and administration.
221.3 Relationship to and use of other agencies.
221.4 Freedom to accept services.
221.5 Statutory requirements for services.
221.6 Services to additional families and individuals.
221.7 Determination and redetermination of eligibility for services.
221.8 Individual service plan.
221.9 Definitions of services.
221.30 Purchase of services.

Subpart B—Federal Financial Participation

Titles I, IV–A, X, XIV and XVI

221.51 General.
221.52 Expenditures for which Federal financial participation is available.
221.53 Expenditures for which Federal financial participation is not available.
221.54 Rates and amounts of Federal financial participation.
221.55 Limitations on total amount of Federal funds payable to States for services.
221.56 Rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam.

Titles I, IV–A, IV–B, X, XIV and XVI

221.61 Public sources of State's share.
221.62 Private sources of State's share.

AUTHORITY: Section 1102, 49 Stat. 647 (42 U.S.C. 1302).

§ 221.0 Scope of programs.

(a) Federal financial participation is available for expenditures under the State plan approved under title I, IV–A, IV–B, X, XIV, or XVI of the Act with respect to the administration of service programs under the State plan. The service programs under these titles are hereinafter referred to as: Family Services (title IV–A), WIN Support Services (title IV–A), Child Welfare Services (title IV–B), and Adult Services (titles I, X, XIV, and XVI). Expenditures subject to Federal financial participation are those made for services provided to families, children, and individuals who have been determined to be eligible, and for related expenditures, which are found by the Secretary to be necessary for the proper and efficient administration of the State plan.

(b) The basic rate of Federal financial participation for Family Services and Adult Services under this part is 75 percent provided that the State plan meets all the applicable requirements of this part and is approved by the Social and Rehabilitation Service. Under title IV–A, effective July 1, 1972, the rates are 50 percent for emergency assistance in the form of services, and 90 percent for WIN Support Services, and effective January 1, 1973, the rate is 90 percent for the offering, arranging, and furnishing, directly or on a contract basis, of family planning services and supplies.

(c) Total Federal financial participation for Family Services and Adult Services provided by the 50 States and the District of Columbia may not exceed $2,500 million for any fiscal year, allotted to the States on the basis of their population. No more than 10 percent of the Federal funds payable to a State under its allotment may be paid with respect to its service expenditures for individuals who are not current applicants for or recipients of financial assistance under the State's approved plans, except for services in certain exempt classifications.

(d) Rates and amounts of Federal financial participation for Puerto Rico, Guam, and the Virgin Islands are subject to different rules.

Subpart A—Requirements for Service Programs

§ 221.1 General.

The State plan with respect to programs of Family Services, WIN Support Services, Child Welfare Services, and Adult Services must contain provisions committing the State to meet the requirements of this subpart.

§ 221.2 Organization and administration.

(a) *Single organizational unit*

(1) There must be a single organizational unit, within the single State agency, at the State level and also at the local level, which is responsible for the furnishing of services by agency staff under title IV, parts A and B Responsibility for furnishing specific services also furnished to clients under other public assistance plans (e.g. homemaker service) may be located elsewhere within the agency, provided that this does not tend to create differences in the quality of services for AFDC and CWS cases. (This requirement does not apply to States where the title IV-A and title IV-B programs were administered by separate agencies on January 2, 1968.)

(2) Such unit must be under the direction of its chief officer who, at the State level, is not the head of the State agency.

(b) *Advisory committee on day-care services.* An advisory committee on day-care services for children must be established at the State level to advise the State agency on the general policy involved in the provision of day-care services under the title IV–A and title IV–B programs. The committee shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations or groups concerned with the provision of day care.

(c) *Grievance system.* There must be a system through which recipients may present grievances about the operation of the service program.

(d) *Program implementation.* The State plan must provide for State level service staff to carry responsibility for:

(1) Planning the content of the service programs, and establishing and interpreting service policies;

(2) Program supervision of local agencies to assure that they are meeting plan requirements and State policies, and that funds are being appropriately and effectively used; and

(3) Monitoring and evaluation of the services programs.

(e) *Provision of services.* The State plan must specify how the services will be provided and, in the case of provision by other public agencies, identify the agency and the service to be provided.

§ 221.3 Relationship to and use of other agencies.

There must be maximum utilization of and coordination with other public and voluntary agencies providing similar or related services which are available without additional cost.

§ 221.4 Freedom to accept services.

Families and individuals must be free to accept or reject services. Acceptance of a service shall not be a prerequisite for the receipt of any other services or aid under the plan, except for the conditions related to the Work Incentive Program or other work program under a State plan approved by the service.

§ 221.5 Statutory requirements for services.

(a) In order to carry out the statutory requirements under the Act with respect to Family Services and Adult Services programs, and in order to be eligible for 75 percent Federal financial participation in the costs of providing services, including the determination of eligibility for services, the State must, under the Family Services program, provide to each appropriate member of the AFDC assistance unit the mandatory services and those optional services the State elects to include in the State plan, and must, under the Adult Services program, provide to each appropriate applicant for or recipient of financial assistance under the State plan at least one of the defined services which the State elects to include in the State plan.

(b)(1) For the Family Services program, the mandatory services are family planning services, foster-care services for children, and protective services for children. The optional services are day-care services for children, educational services, employment services (non-WIN), health-related services, homemaker services, home management and other functional educational services, housing improvement services, and transportation services.

(2) For the Adult Services program, the defined services are chore services, day-care services for adults, educational services, employment services, family planning services, foster-care services for adults, health-related services, home delivered or congregate meals, homemaker services, home management and other functional educational services, housing improvement services, protective services for adults, special services for the blind, and transportation services.

§ 221.6 Services to additional families and individuals.

(a) If a State elects to provide services for additional groups of families or individuals, the State plan must identify such groups and specify the services to be made available to each group.

(b) If a service or an element of service is not included for recipients of financial assistance under the State plan, it may not be included for any other group.

(c) The State may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Families and children who are current applicants for financial assistance under title IB–A.

(2) Families and individuals who have been applicants for or recipients of financial assistance under the State plan within the previous 3 months, but only to the extent necessary to complete provision of services initiated before withdrawal or denial of the application or termination of financial assistance.

(3) Families and individuals who are likely to become applicants for or recipients of financial assistance under the State plan within 6 months, i.e., those who:

(i) Do not have income exceeding 133⅓ percent of the State's financial assistance payment level under the State's approved plan; and

(ii) Do not have resources that exceed permissible levels for such financial assistance; and

(iii) In the case of eligibility under title IV–A, have a specific problem or problems which are susceptible to correction or amelioration through provision of services and which will lead to dependence on financial assistance under title IV–A within 6 months if not corrected or ameliorated; and

(iv) In the case of eligibility under title I, X, XIV, or XVI. have a specific problem or problems which are susceptible to correction or amelioration through provision of services and which will lead to dependence on financial assistance under such title, or medical assistance, within 6 months if not corrected or ameliorated; and who are (*a*) At least 64½ years of age for linkage to title I, or title XVI with respect to the aged;

(*b*) Experiencing serious, progressive deterioration of sight that, as substantiated by medical opinion, is likely to reach the level of the State agency's definition of blindness within 6 months, for linkage to title X, or title XVI with respect to the blind; or

(*c*) At least 17½ years of age and, according to professional opinion, are experiencing a physical or mental condition which is likely to result within 6 months in permanent and total disability, for linkage to title XIV, or title XVI with respect to the disabled.

(4) Aged, blind, or disabled persons who are likely to become applicants for or recipients of financial assistance under the State plan within 6 months as evidenced by the fact that they are currently eligible for medical assistance as medically needy individuals under the State's title XIX plan.

§ 221.7 Determination and redetermination of eligibility for services.

(a) The State agency must make a determination that each family and individual is eligible for Family Services or Adult Services prior to the provision of services under the State plan.

(1) In the case of current applicants for or recipients of financial assistance under the State plan, this determination must take the form of verification by the organizational unit responsible for development of individual service plans with the organizational unit responsible for determination of eligibility for financial assistance that the family or individual has submitted an application for assistance which has not been withdrawn or denied or that the family or individual is currently receiving financial assistance. This verification must identify each individual whose needs are taken into account in the application or the determination of the amount of financial assistance.

(2) In the case of families or individuals who are found eligible for service on the basis that they are likely to become applicants for or recipients of financial assistance under the State plan, this determination must be based on evidence that the conditions of eligibility have been met, and must identify the specific problems which, if not corrected or ameliorated, will lead to dependence on such financial assistance or, in the case of the aged, blind or disabled, on medical assistance.

(b) The State agency must make a redetermination of eligibility of each family and individual receiving service at the following intervals:

(1) Quarterly for families and individuals whose eligibility is based on their status as current applicants for or recipients of financial assistance. (This redetermination may be accomplished by comparison of financial assistance payrolls or eligibility listings with service eligibility listings.)

(2) Within 30 days of the date that the status of the family or individual as a current applicant for or recipient of financial assistance is terminated.

(3) Within 6 months of the date of the original determination of eligibility and of any subsequent redetermination of eligibility for families and individuals whose eligibility is based on the determination that they are likely to become applicants for or recipients of financial assistance.

(4) Within 3 months of the effective date of this regulation for families and individuals receiving service on the basis that they are former applicants for or recipients of financial assistance.

§ 221.8 Individual service plan.

(a) An individual service plan must be developed and maintained on a current basis by agency staff for each family and individual receiving service under the State's title I, IV–A, X, XIV or XVI plan. No service, other than emergency assistance in the form of services under the title IV–A plan, may be provided under the State plan until it has been incorporated in the individual service plan and a service may be provided only to the extent and for the duration specified in the service plan. The service plan must relate all services provided to the specific goals to be achieved by the service program. It must also indicate the target dates for goal achievement and the extent and duration of the provision of each service. For the purposes of this part, the specific goals to be achieved are limited to:

(1) *Self-support goal.* To achieve and maintain the feasible level of employment and economic self-sufficiency. (Not applicable to the aged under the Adult Services program.)

(2) *Self-sufficiency goal.* To achieve and maintain personal independence, self-determination and security, including, for children, the achievement of potential for eventual independent living.

(b) The service plan must be reviewed as often as necessary to insure that only appropriate services are provided to recipients but in any event once every 6 months. At the time of each review the need for and effectiveness of all services must be reassessed and progress toward achievement of goals must be evaluated and recorded.

(c) Service plans for families and individuals who are determined to be eligible for service on the basis that they are likely to become applicants for or recipients of financial assistance under the title I, IV–A, X, XIV or XVI plan may include only services which are necessary to correct or ameliorate the specific problems which will lead to dependence on such financial assistance or medical assistance to aged, blind, or disabled persons under the title XIX plan, as identified at the time of eligibility determination or redetermination.

(d) Whenever the provider of services specified in the service plan is not located within the organizational unit responsible for the maintenance of the service plan, there must be a written authorization for the provision of the service which specifies the service to be provided and the individuals to whom it will be provided. No authorization for the provision of service may cover a period longer than 6 months but authorizations for additional periods may be made subject to the review requirement in paragraph (b) of this section. No provision of service may be authorized at cost to the State agency if it is available without cost to the State agency.

(e) Efforts to enable individuals and families to clarify their need for services, to identify and make choices of appropriate services, and to use services effectively (i.e., supportive counseling) are assumed as an integral part of development and maintenance of the individual service plan.

§ 221.9 Definitions of services.

(a) This section contains definitions of all mandatory and optional services under the Family Services program and the defined services under the Adult Services program (see §§ 221.5 and 221.6).

(b)(1) *Chore services.* This means the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when, because of frailty or other conditions, he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialist.

(2) *Day care services for adults.* This means personal care during the day in a protective setting approved by the State or local agency.

(3) *Day car services for children.* This means care of a child for a portion of the day, but less than 24 hours, in his own home by a responsible person, or outside his home in a family day care home, group day care home, or day care center. Such care must be for the purpose of enabling the caretaker relatives to participate in employment, training, or receipt of needed services, where no other member of the child's family is able to provide adequate care and supervision. In-home care must meet State agency standards that, as a minimum, include requirements with respect to: The responsible person's age, physical and emotional health, and capacity and available time to care properly for children; minimum and maximum hours to be allowed per 24-hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children. Day care facilities used for the care of children must be licensed by the State or approved as meeting the standards for such licensing.

(4) *Educational services.* This means helping individuals to secure educational training most appropriate to their capacities, from available community resources at no cost to the agency.

(5) *Employment services (non-WIN under title IV–A and for the blind or disabled).* This means enabling appropriate individuals to secure paid employment or training leading to such employment, through vocational, educational, social, and psychological diagnostic assessments to determine potential for job training or employment; and through helping them to obtain vocational education or training at no cost to the agency.

(6) *Family planning services.* (i) For Family Services this means social, educational, and medical services to enable appropriate individuals (including minors who can be considered to be sexually active) to limit voluntarily the family size or space the children, and to prevent or reduce the incidence of births out of wedlock.

Such services include printed materials, group discussions and individual interviews which provide information about and discussion of family planning; medical contraceptive services and supplies; and help in utilizing medical and educational resources available in the community. Such services must be offered and be provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting them.

(ii) For Adult Services this means social and educational services, and help in securing medical services, to enable individuals to limit voluntarily the family size or space the children, and to prevent or reduce the incidence of births out of wedlock. Such services include printed materials, group discussions, and individual interviews which provide information about and discussion of family planning; and help in utilizing medical and educational resources available in the community.

(7) *Foster care services for adults.* This means placement of an individual in a substitute home which is suitable to his needs, supervision of such home, and periodic review of the placement, at least annually, to determine its continued appropriateness. Foster care services do not include activities of the home in providing care or supervision of the individual during the period of his placement in the home.

(8) *Foster care services for children.* This means placement of a child in a foster family home, or appropriate group care facility, as a result of a judicial determination to the effect that continuation of care in the child's own home would be contrary to the welfare of such child; services needed by such child while awaiting placement; supervision of the care of such child in foster care and of the foster care home or facility, to assure appropriate care; counseling with the parent or other responsible relative to improve home conditions and enable such child to return to his own home or the home of another relative, as soon as feasible; and periodic review of the placement to determine its continuing appropriateness. Foster care services do not include activities of the foster care home or facility in providing care or supervision of the child during the period of placement of the child in the home or facility. A foster care home or facility used for care of children must be licensed by the State in which it is situated or have been approved, by the agency of such State responsible for licensing homes or facilities of this type, as meeting the standards established for such licensing.

(9) *Health-related services.* This means helping individuals and families to identify health needs and to secure diagnostic, preventive, remedial, ameliorative, child health screening, and other needed health services available under Medicaid, Medicare, maternal and child health programs, handicapped children's programs or other agency health services programs and from other public or private agencies or providers of health services; planning, as appropriate, with the individual, his relatives or others, and health providers to help assure continuity of treatment and carrying out of health recommendations; and helping such individual to secure admission to medical institutions and other health-related facilities.

(10) *Home delivered or congregate meals.* This means the preparation and delivery of hot meals to an individual in his home or in a central dining facility as necessary to prevent institutionalization or malnutrition.

(11) *Homemaker services.* (i) For Family Services this means care of individuals in their own homes, and helping individual caretaker relatives to achieve adequate household and family management, through the services of a trained and supervised homemaker.

(ii) For Adult Services this means care of individuals in their own homes, and helping individuals in maintaining, strengthening, and safeguarding their functioning in the home through the services of a trained and supervised homemaker.

(12) *Home management and other functional educational services.* This means formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing, and health maintenance.

(13) *Housing improvement services.* This means helping families and individuals to obtain or retain adequate housing. Housing and relocation costs, including construction, renovation or repair, moving of families or individuals, rent, deposits, and home purchase, may not be claimed as service costs.

(14) *Protective services for adults.* This means identifying and helping to correct hazardous living conditions or situations of an individual who is unable to protect or care for himself.

(15) *Protective services for children.* This means responding to instances, and substantiating the evidence, of neglect, abuse, or exploitation of a child; helping

parents recognize the causes thereof and strengthening (through arrangement of one or more of the services included in the State plan) parental ability to provide acceptable care; or, if that is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, and furnishing relevant data.

(16) *Special services for the blind.* This means helping to alleviate the handicapping effects of blindness through: training in mobility, personal care, home management, and communication skills; special aids and appliances; special counseling for caretakers of blind children and adults; and help in securing talking book machines.

(17) *Transportation services.* This means making it possible for an individual to travel to and from community facilities and resources, as part of a service plan.

§ 221.30 Purchase of services.

(a) A State plan under title I, IV–A, X, XIV, or XVI of the Act, which authorizes the provision of services by purchase from other State of local public agencies, from nonprofit or proprietary private agencies or organizations, or from individuals, must with respect to services which are purchased:

(1) Include a description of the scope and types of services which may be purchased under the State plan;

(2) Provide that the State or local agency will negotiate a written pruchase of services agreement with each public or private agency or organization in accordance with requirements prescribed by SRS. Effective April 1, 1973, all purchased services must be provided under agreements which meet the requirements of this paragraph. A written agreement or written instructions which meet the requirements of this paragraph must also be executed or issued by the single State or local agency where services are provided under the plan directly by the State or local agency in respect to activities added by reorganization of administrative structure, redesignation of the State or local agency or otherwise, occurring after February 15, 1973, or are provided by any public agency as to which a waiver of the single State agency requirement pursuant to section 204 of the Intergovernmental Coo[illegible]on Act is granted after February 15, 1973. These written purchase of servi[illegible]reements and other written agreements or instructions are subject to prior [illegible]ew and approval by the SRS Regional Office to the extent prescribed in, and in accordance with, instructions issued by SRS;

(3) Provide that services will be purchased only if such services are not available without cost;

(4) Provide that purchase of services from individuals will be documented as to type, cost, and quantity. If an individual acts as an agent for other providers, he must enter into a formal purchase of services agreement with the State or local agency in accordance with paragraph (a)(2) of this section;

(5) Provide that overall planning for purchase of services, and monitoring and and evaluation of purchased services, must be done directly by staff or the State of local agency;

(6) Provide that the State or local agency will determine the eligibility of individuals for services and will authorize the types of services to be provided to each individual and specify the duration of the provision of such services to each individual;

(7) Assure that the sources from which services are purchased are licensed or otherwise meet State and Federal standards;

(8) (i) Provide for the establishment of rates of payment for such services which do not exceed the amounts reasonable and necessary to assure quality of service, and in the case of services purchased from other public agencies, are in accordance with the cost reasonably assignable to such services;

(ii) Describe the methods used in establishing and maintaining such rates; and

(iii) Indicate that information to support such rates of payment will be maintained in accessible form; and

(9) Provide that, where payment for service is made to the recipient for payment to the vendor, the State or local agency will specify to the recipient the type, cost, quantity, and the vendor of the service, and the agency will establish procedures to insure proper delivery of the service to, and payment by, the recipient.

(b) In the case of services provided, by purchase, as emergency assistance to needy families with children under title IV–A, the State plan may provide for an exception from the requirements in paragraphs (a)(2), (4), (7), and (8) of this section, but only to the extent and for the period necessary to deal with the emergency situation.

(c) All other requirements governing the State plan are applicable to the purchase of services, including:

(1) General provisions such as those relating to single State agency, grievances, safeguarding of information, civil rights, and financial control and reporting requirements: and

(2) Specific provisions as to the programs of services such as those on required services, statewideness, maximum utilization of other agencies providing services, and relating services to defined goals.

Subpart B—Federal Financial Participation

Titles I, IV-A, X, XIV, and XVI

§ 221.51 General.

Federal financial participation is available for expenditures under the State plan which are:

(a) Found by the Secretary to be necessary for the proper and efficient administration of the State plan;

(b)(1) For services under the State plan provided in accordance with the individual service plan to families and individuals included under the State plan who have been determined (and redetermined) to be eligible pursuant to the provisions of this part:

(2) For other activities which are essential to the management and support of such services;

(3) For emergency assistance in the form of services to needy families with children (see § 233.120 of this chapter); and

(c) Identified and allocated in accordance with SRS instructions and OMB Circular A-87.

§ 221.52 Expenditures for which Federal financial participation is available.

Federal financial participation is available in expenditures for:

(a) Salary, fringe benefits, and travel costs of staff engaged in carrying out service work or service-related work;

(b) Costs of related expenses, such as equipment, furniture, supplies, communications, and office space;

(c) Costs of services purchased in accordance with this part;

(d) Costs of State advisory committees on day care services for children, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(e) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(f) Cost to the agency for the use of volunteers;

(g) Costs of operation of agency facilities used solely for the provision of services, except that appropriate distribution of costs is necessary when other agencies also use such facilities in carrying out their functions, as might be the case in comprehensive neighborhood service centers;

(h) Costs of administrative support activities furnished by other public agencies or other units within the single State agency which are allocated to the service programs in accordance with an approved cost allocation plan or an approved indirect cost rate as provided in OMB Circular A-87;

(i) With prior approval by SRS, costs of technical assistance, surveys, and studies, performed by other public agencies, private organizations, or individuals to assist the agency in developing, planning, monitoring, and evaluating the services program when such assistance is not available without cost;

(j) Costs of advice and consultation furnished by experts for the purpose of assisting staff in diagnosis and in developing individual service plans;

(k) Costs of emergency assistance in the form of services under title IV-A;

(l) Costs incurred on behalf of an individual under title I, X, XIV or XVI for securing guardianship or commitment (e.g., court costs, attorney's fees and guardianship or other costs attendant on securing professional services);

(m) Costs of public liability and other insurance protection; and

(n) Other costs, upon approval by SRS.

§ 221.53 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part in expenditures for:

(a) Carrying out any assistance payments functions, including the assistance payments share of costs of planning and implementing the separation of services from assistance payments;

(b) Activities which are not related to services provided by agency staff or volunteers, by arrangements with other agencies, organizations, or individuals, at no cost to the service program, or by purchase;

(c) Purchased services which are not secured in accordance with this part;

(d) Construction and major renovations;

(e) Vendor payments for foster care (they are assistance payments);

(f) Issuance of licenses or the enforcement of licensing standards;

(g) Education programs and services that are normally provided by the regular school system;

(h) Housing and relocation costs, including construction, renovation or repair, moving of families or individuals, rent, deposits, and home purchase;

(i) Medical, mental health, or remedial care or services, except when they are:

(1) Part of the family planning services under title IV–A, including medical services or supplies for family planning purposes;

(2) Medical examinations for persons caring for children under agency auspices, and are not otherwise available; or

(3) For medical (including psychiatric) diagnostic assessments necessary to the development of a service plan for an individual;

(j) Subsistence and other maintenance assistance items even when such items are components of a comprehensive program of a service facility;

(k) Transportation which is provided under the State's title XIX plan;

(l) Effective January 1, 1974, costs of employment services (non-WIN) under title IV–A provided to persons who are eligible to participate in WIN under title IV–C of the Act, unless the WIN program has not been initiated in the local jurisdiction; and

(m) Other costs not approved by SRS.

§ 221.54 Rates and amounts of Federal financial participation.

(a) *Federal financial participation at the 75 percent rate.* (1) For States with a State plan approved as meeting the requirements of Subpart A of this part, and that have in operation an approved separated service system in accordance with § 205.102 of this chapter. Federal financial participation at the rate of 75 percent is available for all matchable direct costs of the separated service system, plus all indirect costs which have been allocated in accordance with an approved cost allocation plan and with the requirements of OMB Circular A–87.

(2) For States with a State plan approved as meeting the requirements of Subpart A of this part, but that do not have in operation an approved separated service system in accordance with § 205.102 of this chapter, the rate of Federal financial participation is governed by the regulations in Parts 220 and 222 of this chapter as in effect on January 1, 1972, for all matchable direct costs of the services program, plus all indirect costs which have been allocated in accordance with an approved cost allocation plan and with the requirements of OMB Circular A–87.

(b) *Federal financial participation for purchased services.* (1) Federal financial participation is available in expenditures for purchase of service under the State plan to the extent that payment for purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of service and, in the case of services purchased from other public agencies, the cost reasonably assignable to such services, provided the services are purchased in accordance with the requirements of this part.

(2) Services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under title I, IV–A, X, XIV, or XVI of the Act and which are included under the approved State plan, except as limited by the provisions of paragraph (6)(3) of this section.

(3) Effective March 1, 1973, Federal financial participation is available for a new purchase of services from another public agency only for services beyond those represented by fiscal year 1972 expenditures of the provider agency (or its predecessors) for the type of service and the type of persons covered by the agreement. A new purchase of service from another public agency is any purchase of services other than a purchase for the type of service and the type of persons covered by an agreement that was validly subject to Federal financial participation under title I, IV–A, X, XIV, or XVI prior to February 16, 1973.

EXAMPLE: The welfare agency makes an agreement for purchase of services from another public agency. In the year ended June 30, 1972, there was no purchase arrangement, and such other agency expended $100,000 in non-Federal funds in furnishing the type of services to the type of persons covered by the agreement. In the year ending June 30, 1974, Federal financial participation will be available only to the extent that the expenditures of such other agency for these purposes from non-Federal sources are expanded. If the total expenditures are $100,000 or less, there will be no Federal payments. If the total expenditures are over $100,000, Federal financial participation will be available only in the excess over $100,000. Thus, if total expenditures are $200,000, the Federal share at 75 percent of expansion would be $75,000. For a new purchase in the period February 16 through June 30, 1973, for the purpose of computing the Federal financial participation for the remainder of the fiscal year ending June 30, 1973, the total fiscal year 1972 expenditures of $100,000 are prorated. Thus, if the new purchase went into effect on April 1, 1973, Federal financial participation for the April–June 1973 quarter would be available only in the excess over $25,000 for that quarter.

(4) The provisions of paragraph (b) (3) of this section also apply to services provided, directly or through purchase, by:

(i) Any public agency as to which a waiver of the single State agency requirement pursuant to section 204 of the Intergovernmental Cooperation Act is granted after February 15, 1973, or

(ii) The State or local agency, as to activities added by reorganization of administrative structure, redesignation of the State or local agency, or otherwise, occurring after February 15, 1973.

§ 221.55 Limitations on total amount of Federal funds payable to States for services.

(a) The amount of Federal funds payable to the 50 States and the District of Columbia under titles I, IV–A, X, XIV, and XVI for any fiscal year (commencing with the fiscal year beginning July 1, 1972) with respect to expenditures made after June 30, 1972 (see paragraph (b) of this section), for services (other than WIN Support Services, and emergency assistance in the form of services, under title IV–A) is subject to the following limitations:

(1) The total amount of Federal funds paid to the State under all of the titles for any fiscal year with respect to expenditures made for such services shall not exceed the State's allotment, as determined under paragraph (c) of this section; and

(2) The amounts of Federal funds paid to the State under all of the titles for any fiscal year with respect to expenditures made for such services shall not exceed the limits pertaining to the types of individuals served, as specified under paragraph (d) of this section.

Notwithstanding the provisions of paragraphs (c)(1) and (d) of this section, a State's allotment for the fiscal year commencing July 1, 1972, shall consist of the sum of:

(i) An amount not to exceed $50 million payable to the State with respect to the total expenditures incurred, for the calendar quarter beginning July 1, 1972, for matchable costs of services of the type to which the allotment provisions apply, and

(ii) An amount equal to three-fourths of the State's allotment as determined in accordance with paragraphs (c)(1) and (d) of this section.

However, no State's allotment for such fiscal year shall be less than it would otherwise be under the provisions of paragraphs (c)(1) and (d) of this section.

(b) For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the cash transactions occur or the date to which allocated in accordance with OMB Circular A–87 and cost allocation procedures prescribed by SRS. In the case of local administration, the date of expenditure by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to July 1, 1972, and other factors relevant to the purposes of this section.

(c)(1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) each State shall be allotted an amount which bears the same ratio to $2,500 million as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time.

(d) Not more than 10 percent of the Federal funds shall be paid with respect to expenditures in providing services to individuals (eligible for services) who are not recipients of aid or assistance under State plans approved under such titles, or applicants for such aid or assistance, except that this limitation does not apply to the following services:

(1) Services provided to meet the needs of a child for personal care, protection, and supervision (as defined under day care services for children) but only in the case of a child where the provision of such services is needed in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

(2) Family planning services:

(3) Any services included in the approved State plan that are provided to an individual diagnosed as mentally retarded by a State mental retardation clinic or other agency or organization recognized by the State agency as competent to make such diagnoses, or by a licensed physician, but only if such services are needed as part of an individual service plan for such individual by reason of his condition of being mentally retarded;

(4) Any services included in the approved State plan provided to an individual who has been diagnosed by a licensed physician as a drug addict or alcoholic, but only if such services are needed by such individual under an individual service plan as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

(5) Foster care services for children when needed by a child under an individual service plan because he is under foster care.

§ 221.56 Rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam.

(a) For Puerto Rico, the Virgin Islands, and Guam, the basic rate for Federal financial participation for Family Services and WIN Support Services under title IV–A is 60 percent. However, effective July 1, 1972, the rate is 50 percent for emergency assistance in the form of services.

(b) For family planning services and for WIN Support Services, the total amount of Federal funds that may be paid for any fiscal year shall not exceed $2 million for Puerto Rico, $65,000 for the Virgin Islands, and $90,000 for Guam. Other services are subject to the overall payment limitations for financial assistance and services under titles I, IV–A, X, XIV, and XVI, as specified in section 1108(a) of the Social Security Act.

(c) The rates and amounts of Federal financial participation set forth in § 221.54 (a) and (b) of this chapter apply to Puerto Rico, the Virgin Islands and Guam, except that the 60-percent rate of Federal financial participation is substituted as may be appropriate. The limitation in Federal payments in § 221.55 of this chapter does not apply.

Titles I, IV–A, IV–B, X, XIV, and XVI

§ 221.61 Public sources of State's share.

(a) Public funds, other than those derived from private resources, used by the State or local agency for its services programs may be considered as the State's share in claiming Federal reimbursement where such funds are:

(1) Appropriated directly to the State or local agency; or

(2) Funds of another public agency which are:

(i) Transferred to the State or local agency and are under its administrative control; or

(ii) Certified by the contributing public agency as representing current expenditures for services to persons eligible under the State agency's services programs, subject to all other limitations of this part.

Funds from another public agency may be used to purchase services from the contributing public agency, in accordance with the regulations in this part on purchase of services.

(b) Public funds used by the State or local agency for its services programs may not be considered as the State's share in claiming Federal reimbursement where such funds are:

(1) Federal funds, unless authorized by Federal law to be used to match other Federal funds;

(2) Used to match other Federal funds; or

(3) Used to purchase services which are available without cost.

In respect to purchase of services from another public agency, see also § 221.54 (b) of this chapter with respect to rates and amounts of Federal financial participation.

§ 221.62 Private sources of State's share.

Donated private funds or in-kind contributions may not be considered as the State's share in claiming Federal reimbursement.

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Mrs. Mink. The subcommittee is now convened. This is for the purpose of holding oversight hearings on the Social and Rehabilitation Service's proposed regulations as they affect child care programs. The schedule calls for hearing Congresswoman Bella Abzug and Congressman Edward Roybal, neither of whom are here, so we will take their testimony when they arrive.

The chairman of the subcommittee is delayed momentarily because of a conference on the Vocational Rehabilitation Act. May I call the next witness listed on the agenda, Kenneth Sain, deputy mayor of the city of Chicago, accompanied by Mr. Brooks, chairman of the department of human resources.

Mr. Brooks. Mr. Sain is here. He is delayed a few moments but I would like to wait.

Mrs. Mink. We will then call on Mrs. Georgia McMurray.

Voice. She is momentarily delayed, too.

Mrs. Mink. Is Jan G. McCarthy, chairman of the Indiana 4-C Committee, here?

STATEMENT OF JAN G. McCARTHY, CHAIRMAN, INDIANA 4-C COMMITTEE

Ms. McCarthy. Thank you.

Mrs. Mink. We have your statement.

Ms. McCarthy. I am pleased to appear before this committee to direct some brief comments to some concerns of ours in Indiana regarding changes in title 4-A of the Social Security Act. Of particular concern to us is section 221.6 which restricts the eligibility of individuals to receive child care services. A person cannot receive day care services beyond the 3-month period after leaving the welfare rolls. In the past, they were eligible for 2 years after leaving the welfare rolls. Point B, the income criteria prohibits service to families whose income exceeds 133 percent of the State assistance payment. Our interpretation of this, as we see it, relating to Indian specifically, for most low-income families, the availability of day care services is an essential element of their patients remaining in the work force.

These requirements will work against the efforts of families to maintain themselves as a unit and to become self-supportive and self-sufficient. The State allows a mother and 1 child to be eligible for day care if they make $3,172 a year or less. This is $61 a week or less.

The new regulation would allow her day care if she makes $35.38 a week or less net. The figures for a mother with 2 children are $71 presently and would be reduced to $44.62 under the proposed plan.

Thus, working and trying to provide child care for a woman with marginal income would encourage additions to the welfare rolls.

Another concern of ours relates to section 221.62 which refers to in kind contributions as a part of the State's share in claiming Federal reimbursement. Our interpretation of this regulation sees that it would drastically reduce the amount of child care services in each State and also eliminate the efforts of private organizations to facilitate States in gradually accepting responsibility for using State moneys. Presently, we have six counties in Indiana using United Way money for the match.

We believe that communities should be involving industry and community agencies in providing these services. Under this plan, this opportunity for encouraging State and local communities to absorb their responsibilities, would be eliminated. One other brief concern is that the proposed regulations eliminate the stipulations of adherence to any Federal day care standards.

We hope that this doesn't reflect a concern that children may not receive quality day care. If it means the relaxing of the Federal inneragency guidelines, I think this is a positive side. Thank you.

Mrs. **Mink.** Thank you very much. Do you have any questions, Mr. Peyser?

Mr. **Peyser.** Just one brief question. Have you any idea of the number of children that would be affected in your State if the proposed regulations, specifically the income requirements, would be enforced?

Ms. **McCarthy.** I could not get this figure to bring with me. Our welfare department could only respond to the income level. We don't know how many people at that level would be eliminated. Perhaps, at least half or maybe more. I must say that Indiana has moved very conservatively. We have developed a State plan that is very comprehensive with the money going to purchase of care with very little being spent on administrative costs. Since we have moved very slowly and conservatively, we only spent $392,000 last year in Federal money for child care. We are just now organizing to the point where we are ready to move and expand the existing programs and it is stopping everyone at this time.

Mr. **Peyser.** Would you submit those figures?

Ms. **McCarthy.** Yes.

Mr. **Peyser.** Thank you.

Mrs. **Mink.** I have one question: With respect to the proposed regulations banning use of private funds for matching purposes, how will this affect your program in Indiana?

Ms. **McCarthy.** This would almost eliminate any Federal money coming in for day care at this point. We do not have any State money that is earmarked for this. All our money is coming from model cities or private moneys. So, it would—unless we can make some changes in State and local governments, then all our money would be eliminated.

Mrs. **Mink.** How many children actually are being provided these services now? Under the current regulations, how many?

Ms. **McCarthy.** I cannot answer that. I can get that figure for you but I don't have it now.

Mr. **Peyser.** If you would yield for a moment, Madame Chairman?

Mrs. **Mink.** Yes.

Mr. PEYSER. I think one thing that will certainly help is the question of the 25-percent funding having to come solely from the municipality. I have good reason to believe that the proposed regulation is going to be changed so that private sources will not be excluded in the calculation. Nevertheless, there are other problems. But, at least, that part will be eliminated, I think.

Ms. MCCARTHY. Fine.

Mr. BRADEMAS. Ms. McCarthy, I hope you will accept my apology for being late. The House has just approved and sent to the President—hopefully, this time, for his signature—a bill that was written in this subcommittee; namely, the Rehabilitation Act of 1972, that would provide for a continuation of the 50-year-old vocational rehabilitation program. The bill will also provide for new programs to assist the severely disabled. This was, you may recall, a major measure passed by Congress last year, that was pocket vetoed by the President.

I am very hopeful that this major measure, which won support from both Republicans and Democrats in this subcommittee and in the committee, will now meet with the approval of the President.

The bill that was passed today, a few minutes ago, authorizes about $30 million less than the original House-passed bill, and about $2 million less than the bill passed by the Senate earlier this year. I mention this because I think this legislation is another instance of the type of measure, initiated in Congress, that is enormously important to the vulnerable groups in our society. And it should, and I hope it will, find favor with the President. The subject of our discussion, today, touches upon the lives of people whom we may also think of as being vulnerable.

I am very grateful to the distinguished gentlelady, Mrs. Mink, from Hawaii, for having opened the hearings. I would ask you one question before calling on Representative Abzug—and I again ask you to forgive my absence. Can you summarize for me in about two sentences what you feel to be the impact, in Indiana, of the administration's regulations on services for children?

Ms. MCCARTHY. As I just mentioned to the Honorable Mrs. Mink, our money now, presently what we are receiving and using for match, is private money in Indiana. Unless we could come up with other sources, then all Federal money that Indiana is eligible for would be eliminated because all our programs, other than the Model Cities money—and that is being phased out at this time—have been from private sources.

I did mention that we have moved slowly because we have a fairly conservative State plan that has assured that services will be available to care for children. That is why we have been slow in receiving State aid, and we have received only $392,000 in child care. The other crucial matter, I think, is in terms of the 133⅓ person cut in the States financial assistance payment. Presently as I mentioned in Indiana, a mother with one child would be eligible if she makes $61 a week; but with the reduction it would allow her to have day care if she makes $35.38 a week or less. This would be prohibiting in terms of women with marginal income. They would be encouraged to stay on the welfare rolls.

With the cut it makes the plan a very marginal amount of money she can make.

Mr. **Brademas.** Are you getting any assistance from Governor Bowen of Indiana in support of restoration of these cuts?

Ms. **McCarthy.** Yes; Governor Bowen is aware that I am here today and is very interested in working with the State 4C committee in resolving some of the problems. Presently, we are finishing a legislature in Indiana and we have not had time—they have not had time to devote to child care until next week.

Mr. **Brademas.** Of course, the Governor is a physician and I hope he would be most sensitive to the importance of providing adequate services for children. So, though I am glad to hear he is concerned, I would like to see him take a position. I have no objection if you communicate that expression of hope to the Governor when you next see him. Thank you very much.

Ms. **McCarthy.** Thank you.

Mr. **Brademas.** Our next witness is our distinguished colleague in the House of Representatives, who has been most eloquent and active in drawing to the attention of this subcommittee her concern, and that of the people she represents, in regards to these cuts, Representative Bella Abzug.

STATEMENT OF HON. BELLA ABZUG, REPRESENTATIVE IN CONGRESS OF THE UNITED STATES FROM THE 20TH DISTRICT OF THE STATE OF NEW YORK

Ms. **Abzug.** Thank you, Mr. Chairman, and colleagues. I would like to express my deep appreciation at your prompt response to my request that you hold public hearings on the Health, Education, and Welfare Department's proposed new regulations covering State and local administration of federally assisted social service programs under the Social Security Act as amended last year.

The regulations have aroused tremendous concern and opposition in New York City and across the country because of the drastic cuts they will impose on social service programs.

It has been estimated that of the 10 million people now being served by these programs, 3.8 million will be adversely affected by the Nixon administration's hard line cutback of Federal assistance.

We have been protesting the $2.5 billion Federal ceiling on social services as an unacceptable reduction of funds for essential programs. Early in this session I introduced legislation, H.R. 245, to exempt child care programs from the Federal ceiling. Now the administration is exceeding congressional authority and is planning to squeeze about another $1 to $1.3 billion out of these programs for working mothers and people in need.

The new regulations are designed to save money at the cost of making life immeasurably more difficult for working parents, especially women, their children, the elderly, the handicapped, addicts, and others receiving assistance under these programs.

New York City, being one of the large cities, has one of the largest child care programs in the Nation, serving about 40,000 children, but even this is woefully inadequate to meet the needs of the thousands of working parents that we have. Under the proposed new regulations, however, at least 20,000 of these children will no longer be eligible for

Federal reimbursement. The proposed restriction of eligibility to those with incomes no more than 133⅓ percent of State public assistance levels means, for example, that a family of four earning more than $5,400 will be cut out. A family of four needs twice that amount to live very modestly in our Nation, according to the Bureau of Labor Statistics, but the Government is now arbitrarily saying that even such low incomes are too much to qualify for help.

Federal funds will be cut for medicaid and health services in day care centers, for day care training programs and for staff to monitor these programs. Quality standards will be lowered. Overall, New York City will lose $77 million in funds in addition to a great loss in funds already imposed by the $2.5 billion ceiling.

In human terms, these changed regulations will create havoc in the lives of thousands of working women and their young children. Let me give you one example from a letter which I delivered personally to HEW Secretary Caspar Weinberger. It is from a mother of two whose younger child attends Greenwich House day care center in lower Manhattan. This young woman, a college graduate, is employed and is also working for an M.A. in higher education. She separated from her husband 3 years ago and only recently obtained a divorce. During that time she received only limited financial help from her husband.

In her letter to Mr. Weinberger, Janet van Bovenkamp points out that:

> Statistically most divorced men after 3 years only partially fulfill their financial obligations; after 10 years, about 80 percent or 90 percent give no support at all to their prior families. Yet we live in a country where almost one-third of marriages end in divorce.

And, she asks: "What happens to the children?"

This young woman writes:

> Now what will be the effect on us if the government does not support our day care centers system? I may consider going on welfare, and many mothers in my situation are—which will increase the Federal welfare budget enormously—or I will be forced to find a series of babysitters to care for my child after he has adjusted to a healthy environment. Most probably, Brett (her son) will be in an insecure position for the next year and a half—at least. Don't you think he's had enough? We will be financially strapped to the point of cutting into our food budget. I will no longer be able to supply minimum government food standards to my family, and I will be forced to look for ragged bargains of used clothing.

And she pleads, "Do you understand?"

There has been all too little understanding of the needs of working women, their desire for the dignity of a job rather than the welfare dole that forces them into a dead-end, substandard existence, their need for adequate care for their children, their hope that this country out of its enormous wealth will provide the kind of social services that many poorer countries have been making available to their citizens for years as a matter of right.

In New York City last week more than 2,000 working mothers and their children demonstrated in front of the HEW's regional office to protest this new assault on their security at the hands of a totally insensible administration. There will be more of these demonstrations in New York and elsewhere in the country if the proposed regulations are allowed to go into effect.

I believe that the most direct way to stop them is for Congress to enact the Reid bill, of which I am happy to be a sponsor. This bill would reinstate the existing HEW regulations. Similar legislation has been introduced in the Senate.

At the same time, we must continue to exert direct pressure on HEW to drop these new proposals. As part of this effort I arranged a meeting yesterday with Mr. Weinberger and Philip Rutledge, Acting Administrator of HEW's Social Rehabilitation Services. I think it is indicative of the heavy kind of flak HEW has been receiving on these new regulations that Mr. Weinberger agreed to meet with me and other Members of Congress on Capitol Hill.

The meeting, which lasted for 90 minutes and was amicable in tone, was also attended by Congresswoman Patsy Mink, who is leading a fight for constituents in her district and for all involved in this; Congresswomen Margaret Heckler, Barbara Jordan, Yvonne Burke, Ella Grasso, Edith Green, Pat Schroeder and a representative of Shirley Chisholm. Congresswoman Elizabeth Holtzman and Congresswoman Marjorie Holt, who like Ms. Heckler is a Republican, were unable to attend personally but had planned to come to join in our protest.

Representing child care groups and interests were Ted Taylor of the Day Care and Child Development Council, a nationwide organization; Bill Pierce of the Child Welfare League; Marjorie Grosett of the Day Care Council of New York and a parent from that group, Rose Baez; the Reverend C. Leonard Miller of the Ad Hoc Committee to Save Our Children; Carol Lubin of the United Neighborhood Houses; Commissioner Georgia McMurray of New York City's Agency for Child Development; Judy Assmus of the Washington Research Project; and Joyce Goldham, editor of the Day Care and Child Development Reports; and others.

They were unanimous in their opposition to the new regulations, particularly the restrictions on eligibility and the prohibition on the use of donated funds to be considered as the State's share in claiming Federal reimbursement.

I understand that the Secretary has indicated in the other body that this particular regulation; namely, forbidding donated private funds to be considered in the State's share of claiming Federal reimbursement, is under consideration for withdrawal. If that is so I am glad to hear it, but that is only one small part of the problem.

In our meeting with Mr. Weinberger we pointed out that these regulations contradict directly this administration's professed interest in voluntarism and the "work ethic."

I was dismayed by Mr. Weinberger's insistence that his prime responsibility was to cut Federal expenditures. We were encouraged, however, to receive his assurance that the new regulations will not go into effect on March 19, the deadline set by HEW for comments on its proposals.

Mr. Weinberger indicated that changes were being made and that it might be at least a month or more after March 19 before the revised regulations become operative. He also said that he would be willing to consider some changes in eligibility requirements and said there would definitely be a revision to allow Federal matching dollars for some private funding

In view of Mr. Weinberger's statement that the proposed new regulations are only a "first draft" and that revised regulations will be issued, Congresswoman Patsy Mink made the suggestion, and others present at the meeting concurred, that the HEW should provide another 30-day period for public comment before putting any revised regulations into effect. It seems to me that this is the very least we should demand of HEW. As far as we can ascertain, these proposed new regulations were drafted with no consultation with the people they will most directly affect, and I think this must be changed.

One of the reasons that time is important in respect to response is because there has been significant opposition to them across the country from many, many groups—from government officials as well as child care groups and parents, and I think that is something that it is important there be a full hearing on, and the hearings of this committee do so in that direction.

It may seem redundant to state that the Health, Education, and Welfare Department was created to concern itself positively with the health, education, and welfare of the American people, but unfortunately it is necessary to do so. The Nixon administration, as part of a general assault on the living standards of millions of Americans through its proposed budget cuts and impounding of funds, is shifting its emphasis in these regulations to cutting and eliminating social service programs rather than determining what the needs of our people are and finding ways to meet them.

I believe the HEW should open the process of formulating regulations to allow for more input by the public and by affected groups. Open hearings by HEW is one way to provide for this. That is why I support very vigorously the recommendation by Congresswoman Mink that 30 days be allowed for response to the revised proposal.

I also believe that this subcommittee can continue to play a very constructive role in this area. I would urge you to extend these hearings to other locations so that the committee members can learn firsthand about the terrible effect the proposed regulations will have on so many essential and human programs. I would certainly welcome your holding a hearing in New York City to allow the many working mothers an opportunity to explain to you their need for a continuation and expansion of child care services.

In any case I do very much commend the chairman and the committee for holding these hearings and would hope that they will have a further effect upon securing what I think would ultimately be the most important thing; namely, the complete withdrawal of these proposed regulations since I feel and find very little justification for their promulgation, their projection, or enactment.

Mr. Brademas. Thank you very much, Ms. Abzug, for a very pointed and effective statement. I was particularly struck by the example you use in your statement of the woman, who, in effect, felt she is being driven away from work and toward welfare by virtue of the impact of the proposed regulations.

It would seem to me one might almost come up with an alliterative assertion that if these regulations, that Mr. Weinberger proposes, are adopted, one can only conclude that Weinberger wants women on welfare, or Weinberger doesn't want women working. At least that seems to be a commonsense interpretation of the rather bizarre impact of these regulations.

For an administration, which likes to preach a lot about the "work ethic," to drive women off jobs and onto welfare seems to be almost nonsensical.

I want to yield, because she was chairing the hearings so ably, to the gentlelady from Hawaii. And I want to congratulate the lady from Hawaii, as well as yourself, Ms. Abzug, and your associates, Democrats and Republicans alike, for the leadership role you have played in bringing this to the attention of the public.

Mrs. MINK. I, too, want to welcome you, Ms. Abzug to our committee and join with the chairman in commending you for your initiative in not only arranging for the meeting that we had the day before yesterday with the Secretary but also for spearheading this particular hearing today.

I know that not just for the constituents that you and I represent but for all of the mothers across the country that your interest is going to result in, I am sure, significant changes in the proposed regulations. I am personally heartened at your call in your statement before this committee, again, to the Secretary, that in reviewing the proposed regulations and in coming up with a final, so-called final, draft that the public in the country can be afforded an opportunity for an additional 30 days to make their comments known with respect to those changes.

In reflecting upon our meeting with the Secretary and reviewing all the letters and pleas that I have received from women all across the country I believe that this is an imperative thing so I want to join with you very emphatically in hoping that this possibility will be given to not just you and I but all of the women and organizations and others who have been working so actively in this field.

The other day the Secretary did suggest that certain revisions be made with respect to, one, the prohibition on private funding. I hope this will be the case in the proposed regulations.

Second, I think it is imperative, whatever their revisions are, that the public at large be given a chance to review them and make comments. Because of all of the changes recommended, this is the one that seems to mean the end of day care services for my State and for many other areas.

I would like to finally say that I join you in all of the points you have made before the committee and commend you, and hope that our efforts will produce the kind of regulations which will meet the problems and yet permit us to continue on in the progress we have had under child care services under the Social Security Act.

Thank you very much.

Ms. ABZUG. Thank you.

Mr. BRADEMAS. I would observe before yielding to Mr. Peyser, one of the reasons I am concerned about the impact of these cuts is that, as you know, this subcommittee began, back in 1969—Mrs. Mink, and Mr. Reid, and I, along with, subsequently, Mr. Hansen—to fashion a comprehensive child development bill.

But we were very distressed to see the President veto that legislation after working very hard to get it passed. But now he is not only vetoing new initiatives, but seeking, further, to take away existing services for children in the United States. And I find it really quite appalling.

Mr. Peyser?

Ms. **Abzug.** If I may, Mr. Chairman, I would like to say that that bill, which was a product of your leadership through this committee, and the members you refer to, and others playing a part, was really a landmark in terms of recognizing the reality.

One of the things we have to do in the Congress is to begin to recognize the realities of life. A lot of people talk about a woman's place being in the home but the fact is we know that 43 to 45 percent of the women in this country are working and many of these have pre-school-age children.

The recognition of the need for universal and comprehensive child care is essential if we are to develop a society which has concern for what will happen to children, let alone the mothers of these children.

I think this is a very significant priority. We have to recognize that we have seriously neglected it. I think we are fighting for very little. This is what is perhaps making me sound a little depressed. It isn't as though we are fighting to get the program which, though not perfect, was a marvelous product of this committee.

We are now fighting a very simple holding operation, just to save the few people that we have been able to help from going under.

Mr. **Brademas.** Mr. Peyser.

Mr. **Peyser.** Thank you, Mr. Chairman. I want to also join in welcoming my colleague from New York, Ms. Abzug, to the committee and am pleased she requested this meeting.

I really don't have any questions at this time. I would like to point out, however, that I was a cosponsor of the day care legislation and I can say that I, as well as a number of other Congressmen, did meet with the Secretary yesterday——

Ms. **Abzug.** Good.

Mr. **Peyser** [continuing]. And discussed a number of points. One thing which I would like to reiterate is that certainly the 25-percent restriction of saying private organizations cannot contribute, that it must be solely from the municipality—will be lifted and will answer, at least in part, an immediate problem. We are also working with the aim of increasing the level of income to a much more realistic figure because this certainly in New York City, and I am sure in other places around the country, represents a major problem.

At this point I can say I am hopeful and have some reason to believe that we are going to see that changed as well. But it is true, that our attempts at the moment seem to be to maintain a status quo. I had hopes and I believe perhaps the time will come when we can hopefully look toward more ambitious programs in this area.

I also would like to say at this time that I do have to catch a plane for New York at 4 this afternoon, and I regret that I am not going to be here when Mrs. McMurry testifies so I will welcome her if I may, Mr. Chairman, in absentia. I have a copy of her testimony and I will certainly study it. I appreciate very much the opportunity of being with you this afternoon. Thank you.

Mr. **Brademas.** Thank you very much, Mr. Peyser. I might also here observe that Mr. Peyser has been most sensitive to this problem, and has been a supporter of our efforts in this area. That is another indication of the bipartisan effort we have sought to mount in the subcommittee. Mr. Meeds?

Mr. **Meeds**. Thank you, Mr. Chairman. I would like to take the opportunity of welcoming our colleague before the committee and commend her on her statement and her efforts in the past. She cosponsored the Reid bill and a number of other things. I would like quickly to ask if you wouldn't agree with me that reading these new regulations and some of the present regulations—the new proposed regulations—some of the present regulations are like reading "Catch 22."

Ms. **Abzug**. That is true.

Mr. **Meeds**. We find under the Talmadge amendments mothers are forced to go under the program; now, under the 3-month limitation, if they get a job they are forced out of the eligibility for these programs. So the only way that a woman can keep children in the day care program is to be unemployed. Isn't that kind of crazy?

Ms. **Abzug**. Yes; as a matter of fact I must commend the women in New York whom I described before as demonstrating in front of the regional HEW office. They had a table in there in which they have pictorially demonstrated what the result would be. They were signing up for welfare to indicate what the immediate effect of this regulation, particularly the eligibiiity requirements and the income limitations, would be. So I couldn't agree with you more, Mr. Meeds.

Mr. **Meeds**. You and I are not generally known as conservatives, but don't you think our position is much more conservative than the administration's?

We are really looking toward conserving money, and getting people back to work. Doesn't that show more concern for the American family than the Nixon administration which professes all this concern that the American family must be kept together and then puts up regulations like that?

Ms. **Abzug**. Yes, I believe that, and that is why—I suppose one can say—there is such a contradiction in these regulations.

I suppose one can also state there is, if you permit me this strong a word, such hypocrisy in these regulations.

Mr. **Meeds**. Wouldn't my colleague agree with me that it is at least hypocritical to be talking about crime and stiffer punishments and doing away with bail and blaming softheaded judges and probation officers for the problem of crime in this country and at the same time taking away the possibility of good early childhood development? Vetoing bills and coming up with regulations like this when the real way to get at crime is through good early childhood development programs, good day care programs, and such things as this?

Ms. **Abzug**. Unless we begin to address ourselves to the whole ladder of human needs, especially to the ladder of those who really are the most helpless, the young people in our society, we can hardly hope to realize the goals and aims of this great country of ours and to have an atmosphere which will allow us to build and carry on to go beyond our great traditions.

I could not agree with you more that there is a lot of heartlessness in all of this but to be heartless where children are concerned is not only a disregard for their emotional well-being but a disregard for the society as well.

Mr. MEEDS. I will yield to the gentleman from Florida.

Mr. Brademas. Mr. Lehman.

Mr. LEHMAN. Thank you for calling this meeting, Mr. Chairman. One of the best programs we have had in Florida is of course the day care centers. As you stated, it seems the big problem in this country today is not necessarily the welfare problem but the working poor problem. That is so much broader and so much greater, I think, than the smaller welfare problem and yet every single stumbling block possible seems to be thrown in the way of those who want to work.

The old work ethic thing has every possible stumbling block whether it is the day care center problem or many other things that seem to be thrown into the way of the working poor people.

Perhaps these kinds of hearings should be extended—if the chairman would consider that—into the areas where day care centers are functioning. There is something about the impact of being where it is happening that would be beneficial.

In a way, not only is the administration seeming to me to be against work itself but even against Christian charity, by prohibiting private grants.

Mr. BRADEMAS. Well, I can only observe that I share the judgment of Mr. Lehman, who has had the kind of experience in Dade County, Fla., that I know you have had in New York City, Ms. Abzug. I know you have support of many members of this subcommittee in this effort. Thank you very much.

Ms. ABZUG. Thank you, Mr. Chairman.

Mr. BRADEMAS. Our next witness—I beg your pardon. I did not see Mr. Hansen. Ms. Abzug, I wonder if I could delay you a moment longer.

After saying such nice things about Mr. Hansen in his absence, I do not want to fail to recognize him in his presence.

Mr. HANSEN. I apologize for my delay. I would like merely to welcome you and express my appreciation for your appearing. Thank you.

Ms. Abzug. Thank you, Mr. Hansen.

Mr. BRADEMAS. Thank you very much.

We shall now hear from Mr. Philip Rutledge who is the Acting Administrator of the Social and Rehabilitation Service, Department of HEW.

STATEMENT OF PHILIP J. RUTLEDGE, ACTING ADMINISTRATOR, SOCIAL AND REHABILITATION SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. BRADEMAS. You have appeared before the subcommittee previously, Mr. Rutledge, and we are glad to have you back.

Mr. RUTLEDGE. Thank you very much, Mr. Chairman. I am pleased to have the opportunity to appear before you today to discuss and answer questions the committee may have about our proposed regulations which were published in the Federal Register on February 16.

I have a prepared statement, Mr. Chairman, which I will submit for the record and only mention a few of the highlights which I think are pertinent to our discussions today.

Mr. BRADEMAS. Fine.

[Mr. Rutledge's prepared statement follows:]

STATEMENT OF PHILIP J. RUTLEDGE, ACTING ADMINISTRATOR, SOCIAL AND REHABILITATION SERVICE

I appreciate this opportunity to describe to the Subcommittee the proposed regulations which govern social service programs for families and children (under Title IV of the Social Security Act) and service programs for the aged, blind or disabled persons (under Titles, I, X, XIV or XVI of the Act). These revised regulations were proposed by the Department on February 16 and are open to comment until March 19. Let me begin with some background information on the program.

Social services consist of various types of personalized help included in an approved State plan and made available to eligible families and individuals to assist them in achieving the maximum level of self-support and self- sufficiency of which they may be capable. Services are made available directly by staff of the State or local agency, by purchase, or at no cost to the agency through arrangements with other community resources.

The history of the services program can be traced to the 1950's, with 50% matching was available to State which wished to provide services to public assistance recipients to help them attain or retain capacity for self-support or self care. Major amendments in 1962 and 1967 expanded the program, providing 75% Federal matching; authorizing purchase of services from State or private agencies; authorizing services to former and potential aid recipients; and so forth.

As you know, the program began to grow exponentially after the 1967 Amendments: Federal expenditures rose from $113 million in FY 1967 to $287 million in FY 1968; from $692 million in FY 1971 to $1.71 billion in FY 1972. FY 1973 estimates were more than $4 billion.

It became apparent last year that without strong effort at the Federal level, expenditures by the States for social services would soar out of control. The Congress took one step in the Revenue Sharing Act, P.L. 92-512, to remedy the situation by placing a ceiling of $2.5 billion on Federal expenditures for social services. It remained for the Department of Health, Education, and Welfare, working within the limitations imposed by the Congress, to provide for social services at the local level in the most efficient way possible. The proposed regulations are our attempt to respect both the fiscal reality of the ceiling on social services expenditures and the legislative intent of the Congress when it authorized the social services programs. From these two factors comes the principal thrust of the proposed regulations, which is to focus services on those who need them most.

We believe our proposed regulations strengthen the role of State agencies in managing the program. We are proposing elimination of requirements which are not based on legislative mandates or necessary for proper and efficient administration. We are also reducing overlap with other Federally-supported programs and specifically identifying for the first time the Federally recognized services for which Federal cost-sharing will be authorized. We have formalized elibigility determination and redetermination at specific intervals and we have required that service plans for individuals and families be prepared and authorized in advance and reviewed periodically for need and effectiveness.

These are proposals only, submitted for public comment. We have encouraged—and have received—comment from interested and concerned individuals and organizations and are giving each careful review and consideration. We have circulated these proposals to all States and many other concerned groups, and also to the Advisory Commission on Intergovernmental Relations. And we have discussed the regulations with many interested Senators and Congressmen, a process which continues with my appearance before you today. Out of this kind of dialogue we hope we can develop a set of regulations that will put most decision-making closer to the point where services are used and which will permit available resources to be used effectively for those who need them most.

I want to speak specifically about day care services under the new regulations as there has been some misunderstanding about these provisions.

The regulations make clear that day care services which help mothers to seek and retain employment or training is a top priority. The primary target groups towards which our efforts are directed are children of employed current public assistance recipients and other very low income families who cannot pay even part of the costs of day care. We will no longer continue to provide services to those who qualified on the basis of broad income levels set by the States which often included families who could reasonably be expected to pay for part, if not all, of the costs of care. One possible exception now under consideration is day care for children with special handicaps such as mental retardation. We are also considering the addition of a fee schedule for familes who are just above poverty level.

In order to meet the needs of the target groups designated in the Social Security Act we anticipate an increase in FY 74 of both Federal dollars spent and number of children served for reasons of employment or training of mothers. Under Title IV–A, for the target groups, we will increase the number of child care years from 291,290 (FY 72) to 430,000 (FY 74) and costs will increase from $261,230,000 to $415,000,000. Under the WIN program, child care years will be increased from 91,700 at a cost of $37,000,000 (FY 72) to 155,100 child care years and $116,633,000 (FY 74).

I will be pleased to answer any questions that you may have about the current program and regulations and the proposed changes.

Mr. **Rutledge**. In addition to submitting my prepared statement, I would also like to submit for the record a statement by Secretary Weinberger at the time the newly proposed regulations were announced and also a fact sheet on the proposed regulations because in the many comments we have received and many inquiries by the press and meetings with a variety of groups interested in the regulations, there has been a great deal of misinformation which we think the fact sheet would assist in correcting.

Mr. **Brademas**. Without objection, the material to which you refer, Mr. Rutledge, will be inserted in the record.

[The statement referred to follows:]

STATEMENT BY HON. CASPAR W. WEINBERGER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

On February 16, the Department published for comment proposed regulations governing the provision of social services authorized by Title IV-A of the Social Security Act. The revised regulations were proposed to conform more closely to the original intent of the Social Security Act, and to implement section 1130 of the General Revenue Sharing Act (P.L. 92–512), which applied new restrictions to Federal matching for social services under Title IV-A.

A key issue raised by many comments on the proposed regulations is the question of day care for children. It is clear that misconceptions have given rise to many of these comments.

One of the misconceptions is that child day care, as authorized under the social services provisions of the Social Security Act, is a universal service embracing middle income families as well as the poor. We believe that this was not the intention of the Act. Although the Department's earlier regulations undeniably permitted liberal interpretations by State and Local governments of eligibility for day care services, we believe that it is clear that services under Title IV-A should be focused on welfare recipients and those just above the welfare assistance level.

The Senate Finance Committee, in its report on the Revenue Sharing Act of 1973, was critical of broad interpretations of eligibility for Federal social services cost matching, particularly in the child day care field. The Committee specified that social services day care should enable a member of the family to work or take work-training, except for child care when the mother was deceased or incapacitated. The Committee also made clear that, in their opinion, massive child care programs on a group or neighborhood eligibility basis were inappropriate under the Social Security Act. The Committee further was critical of the use of donated private funds for matching Federal dollars for social services.

Under the proposed regulations we would refocus Title IV day care to those most in need—welfare families and those families closely approaching that level—to enable the mother to take or retain employment. The Federal Government would no longer assume part of the cost of services to those who don't meet this standard. We are, however, sympathetic to the problem of those whose income is above the standard, but nevertheless depends on day care to retain their jobs; day care for their children often prevents them from going on welfare.

This is a complex problem and we are looking at possible alternative solutions to it. We are also considering certain exceptions to the work related provisions for children with special handicaps such as mental retardation, who also meet the other categorical requirements.

In addition we are carefully weighing suggestions for a change in the proposed regulations that would permit—subject to safeguards to prevent abuses—the use of donated funds as matching.

We realize that the proposed regulations will require some States to redirect their Federally-financed programs so that a greater number of persons on assistance receive needed services to allow them to become self-supporting. This would particularly affect child care services, since many current families receiving these services have income substantially above the assistance level. As this takes place some children now receiving services would no longer be eligible for Federally supported services. On the other hand, more of the funds will be available for day care for a larger number of poor children.

Although there would be changes in target groups under the proposed regulations, HEW estimates do not support a second widespread misconception: that total day care services will be reduced under the regulations.

In FY 1972, some 292,000 child day-care years were provided under Title IV-A of the Social Security Act and another 252,000 child day-care years were funded under the cash-assistance and Work Incentive (WIN) programs. In FY 1973, social services funds are providing some 411,000 child day-care years and an additional 264,000 day-care years are being furnished under cash-assistance an[illegible] WIN. We estimate that next year—should the proposed regulations be issued i[illegible] final form—these figures will rise respectively to 430,000 and 322,000, a new record of 752,000 child day-care years under these provisions of the Social Security Act.

Funds for day care also are rising. Under Title IV-A, Federal costs for day care move from $261 million in FY 1972 to an estimated $397 million in FY 1973 and $415 million in FY 1974, under cash-grant and WIN funding, Federal child care costs will go from $117 million in FY 1972 to an estimated $156 million in FY 1973 and $207 million in FY 1974.

We have received thousands of comments on the proposed regulations, many of them on child care, and we are giving full—and I might say, sympathetic—consideration to them. The proposal is a draft at this time, and after evaluation of comments, changes in the final regulation are quite possible.

In addition to day care programs under the Social Security Act HEW provides other services to young children. One of these programs is Project Head Start, which is operated by the Office of Child Development and which does not fall under the proposed social services regulations. Head Start is a major demonstration effort which is focused on a variety of child development services during the first five years of life. Approximately one-third of the projects last for the entire day, thus enabling the mothers to work. This program is meant to serve children of poor and near-poor families, as is day care under the Social Security Act.

Funding for Head Start has shown a continuous increase, with $416 million requested in the President's budget for FY 1974 compared to $401 million in FY 1973. During FY '74, services will be provided to 379,000 children—270,000 in full year programs, 86,000 in summer programs, and 23,000 children enrolled in such major innovations as Health Start, Home Start and parent and child centers.

In accordance with the Economic Opportunity Act Amendments of 1972, Head Start is increasing its emphasis on handicapped children, so that 10 percent of the enrolled opportunities will be available to children with significant handicaps. Parent and Child Centers are experimental Head Start projects which are exploring the delivery of services to families with children under three years of age, while the broader Head Start program concentrates on pre-school children from age three until they enter school.

I hope that these clarifications will be helpful to all of those who are concerned with child care.

Mr. RUTLEDGE. I would like to highlight a few of the ideas in my statement. I would like to emphasize again, Mr. Chairman, that the regulations published in the Federal Register as a notice of proposed rulemaking are simply that a proposal for making a new rule. We are open to discussions.

As Secretary Weinberger said on a number of occasions, these proposed regulations are not set in concrete. As a result of the suggestions and comments that have come in, there are a number of areas which we now have under reconsideration.

I would also like to point out that although many persons have referred to the proposed regulations as a cut in services, it would be more accurate to say that they would cause a redirection of services. We are not attempting to cut out services that are helpful in assisting persons to move from public assistance or services that help persons stay off if they are in danger of going on, or reinforcing those who have just gone off so they will stay off, but we want to redirect those services so that they target in on those groups that are most in need.

I think we have to recognize not only with these regulations but with other initiatives which we will undertake that we cannot solve all the problems. If we are going to admit that our resources have limitations, we have to begin to set priorities.

The regulations are an attempt to set those priorities. I would like to emphasize that for the first time, through these regulations, we are defining a social service. We are beginning to manage a program which Congress has said to us on a number of occasions was out of control and was not managed.

Many Members of the Congress pointed out we could not give uniform information about the program. The proposed regulations, Mr. Chairman, are a starting point to better management of the program.

As a result of today's session and other opportunities we have had to discuss the proposed regulations, we recognize that the prohibition on donated funds might create a problem in some communities.

When one looks at the legislative record in this area, one sees the concerns that have been expressed by the Senate Finance Committee, by the Joint Economic Committee, the concerns that have been expressed in dialog on the floor with Members of the House, particularly Mr. Mills and Mrs. Griffith, and the contention on the part of some distinguished Members of Congress that Title IV-A of the Social Security Act did not intend that private funds should be matched.

The observed abuses of the original intent of Title IV–A is one of the major factors that encouraged us to take steps to eliminate abuses and to clarify public policy in this area.

We are pleased and very interested that some 46 Members of the Senate have written us on this matter. Approximately 100 Members of the House have written on the social services regulations and many private citizens have communicated with us about the proposed regulations.

So, we know there is a considerable amount of interest. There may still be questions of principle which the Congress may subsequently want to address. But we are reconsidering how we can address the problem of abuses in the regulations and we expect substantial change here.

It is known that when we begin to establish standards, we focus on people in need and set income levels at a specific point; we then arrive at a point where the needy person who makes a dollar or two above the cutoff point cannot be included.

We realize that this is a problem and we are addressing it. We are considering a number of options for example, a sliding fee scale in the child care area. But we want to continue to focus on those individuals at the lower end of the economic scale so that those persons with incomes related to the public assistance standards in a given community would primarily receive the funds.

We recognize from the response of Members of Congress that the regulations for day care, particularly day care for which Title IV-A has paid, frequently in contradiction to existing regulations, to assist retarded, disabled, and handicapped, may create problems.

Many of the areas on which we have received reactions both in this hearing and in the communications that have been sent to us will be reflected in the outcome of these regulations.

Many persons are under the impression that immediately after the comment period closes on March 19, these regulations go into effect. It is not possible for the regulations to go into effect on that day. We need time to analyze fully the comments that were made and to make a finding on those comments, and subsequently, to issue final regulations.

But it is our view, Mr. Chairman, that if the regulations were to go into effect as they are now written, the number of persons receiving services would not be cut. The number of recipients probably would continue to increase. The number of youngsters receiving child care will probably increase and the number of child care years will increase correspondingly.

But the big change will be in the mix of those receiving services. We expect a sharp reduction in numbers of persons who may within 5 years be potentially eligible and in the persons who have been off the roles for 2 years. At the same time, we expect a sharp increase in services to persons now on public assistance and going on. I think the major change in numbers will be in the area of potential and past recipients.

There are a number of other areas the committee may want to explore, and along with my colleagues, I would be pleased to respond to any questions you may have.

I would like to introduce Mr. Suzuki, who is the Assistant Commissioner of the Community Services Administration. And Mr. Joel Cohen, who is the General Counsel of the Social and Rehabilitation Services.

Mr. BRADEMAS. Thank you very much, Mr. Rutledge. I have many questions to put to you but I would offer, first, one observation. The general tenor of your testimony, as I hear it, is that you may be wrong down there. You may have made some mistakes; you may not be quite as godlike and divine as the issuance of these regulations indicated you thought you were. I understand that Secretary Weinberger has already agreed, according to this morning's New York Times, that he was wrong on the question of private donations.

Therefore, would it not be the better part of wisdom for you to extend for another 30 days, at least, the time during which people, including Members of Congress, can make known their views on this matter? Or is it your posture that so Mount Sinai-like is the wisdom of HEW that we in Congress, or the citizenry of this country, are not allowed to come up with our recommendations?

In other words, how about another month?

Mr. RUTLEDGE. Let me make one brief comment. It is my view, and I have made recommendations to the Secretary, that the 10,000 or so comments which we have received and the number of meetings which we have held, and our own analysis of the problem all enable us to know, in effect, where the problems are. I don't feel there should be any additional information or any additional reason that we don't already have.

Mr. **Brademas**. Do you, Mr. Rutledge, on the seventh day rest? Who are you to say that you don't feel that anybody else has anyting to add on these regulations?

Mr. **Rutledge**. I didn't say that. The comment period could go on forever. There is always one other person with another thought, another idea.

Mr. **Brademas**. It is a big country.

Mr. **Rutledge**. It is a big country and let me say as a comment on your earlier remarks, no one has presumed they were godlike on this. We addressed certain issues in the public's interest, many of which were directed by the legislation passed by this Congress. We sent out that notice on the Social Service regulations so that citizens could respond. The usual procedure after the 30-day comment period, is to analyze the comments and issue final regulations based on these comments. There can always be one other issue or one other question to be raised. But these regulations are long overdue. We have been working on these regulations since the fall of 1971. We have consulted professional groups, lay groups and elected officials. We have taken a number of those suggestions. Many States have many questions about what they will and will not want to do to implement their programs until regulations are issued.

I think whatever form the regulations are going to take, they should be issued as soon as possible. It is always possible to amend them later if there are some other insights that we gain or you give us or some other group gives us in the process of implementation.

Mr. **Brademas**. I appreciate that. Although this subcommittee has been wrestling with this problem for many years, I know of no others to consult us than the kinds of witnesses we have before us today.

Mr. **Rutledge**. I personally don't know of a direct consultation with this committee but—

Mr. **Brademas**. I am talking about the committee that has authorizing responsibility in the U.S. House of Representatives in the field of child day care. That is all.

Mr. **Rutledge**. We are really speaking to regulations pursuant to the Social Security Act. The problem which we have in some of our considerations, is the difference between a social service authorized under the Social Security Act, designed to assist public assistance recipients and legislation which may be broadly concerned with child development and education or other related kinds of services.

Mr. **Brademas**. I understand that, Mr. Rutledge.

Mrs. **Mink**. Will the gentleman yield.

Mr. **Brademas**. Mrs. Mink.

Mrs. **Mink**. You have made a statement which I would like to take personal issue with. When I first embarked upon an effort to try to develop an extensive early childhood program 6 years ago, much of the public comment and sentiment was addressed simply to the notion of a day care service project. I can't help but feel in your last statement to the chairman, that you are attempting to suggest that the services we are going to provide children who will be eligible, should be something less than model with respect to the whole concept now of early childhood education, and this is precisely what we are saying should not happen. These children are entitled to the best educational experience that this country can afford.

Indeed, they are probably more in need of this kind of service. So, one of the areas that I am most concerned with is your suggestion to us the other day that one of the new aspects of your final regulations will include modifications of the interagency day care requirements which I think is something which all of us are vitally concerned with which have not been part of your proposed regulations to date. So, if there is any one area which suggests to me the need for public consultation, it is the area of the changes with respect to what constitutes adequate child care services regardless of whether they are in the model parts of the bill or whether they are included in the requirements with respect to your program under social security.

They should be one and the same. They should not be any different in my view.

Mr. Rutledge. My discussion today is not directed at quality of day care but rather at the purpose of services under the Social Security Act. It is true that these regulations do not reference day care requirements standards nor do they consider the 1968 standards which I helped to negotiate. We are currently in the process of revising those standards.

At the time the regulations are issued implementing these new rules under the Social Security Act, we also expect to have day care standards in effect.

I was not speaking about what quality day care should be, but rather the purpose. I would say in that connection, that in reports of the Congress there has been much criticism that some of our day care did, in fact, substitute day care for early childhood education. Some of the congressional committees have been very specific in indicating that they did not plan that day care should be an alternative to early childhood education, but rather, they intended a different kind of day care.

Because this issue has been raised, Mr. Chairman, I would like to place in the record some of the comments on the intentions of day care under these titles as they appear in the report of the Senate Committee on Finance which state, that although the bill does not limit the type of child care which the State can make available or purchase for such children, it does not authorize States simply to establish or underwrite massive child care or prekindergarten programs in low income neighborhoods, as some States have done under interpretations of existing law.

[The material referred to follows:]

[Excerpt from Revenue Sharing Act of 1972, S. Rept. 92-1050]

V. GRANTS TO STATE AND LOCAL GOVERNMENTS FOR SOCIAL SERVICES

(Title III of the Bill)

1. PRESENT LAW

Before 1962, services provided to welfare recipients were subject to the same 50 percent Federal matching as was available for administrative expenses. In order to encourage States to provide social services designed to prevent and reduce dependency on welfare, the Congress in 1962 enacted legislation increasing the

Federal matching for social services to 75 percent while leaving Federal matching for administrative costs at 50 percent. No definition of social services was included either in the 1962 bill or in the Committee reports on the legislation; defining and controlling the scope of services was left to the Secretary of Health, Education, and Welfare and the States.

2. RAPID RISE IN FEDERAL FUNDS FOR SOCIAL SERVICES

Like Federal matching for welfare payments, Federal matching for social services under present law is mandatory and open-ended. Every dollar a State spends for social services is matched by three Federal dollars. The Secretary, by law, is given specific authority to limit the contracting authority for social services and to limit the extent of services to potential (as opposed to actual) welfare recipients. In both cases, however, he has failed to establish effective limitations. In fact, the regulations he has promulgated and the actions of HEW regional officials have invited the very expansion which has taken place. In the last two years particularly, States have made use of the lack of limits on social services under the Social Security Act and the Act's open-ended 75 percent matching to pay for many programs previously funded entirely by the States or funded under other Federal grant programs at lower than 75 percent matching.

The Federal share of social services was about three-quarters of a billion dollars in fiscal year 1971, about $1.5 billion in 1972, and will be an estimated $4.7 billion for fiscal year 1973. Under present administrative guidelines—or perhaps more correctly lack of guidelines—States have succeeded in financing almost any government activity under this provision. The distribution of social services today seems based more on a State's aggressiveness and administrative ingenuity than the needs of its recipients of assistance. For example, one State financed a half million dollar TV documentary with social services money. In another State, social service funds have gone into the State highway department, while in still another State, funds are going for advice on personal grooming to potential parolees from the State prisons. State welfare departments, which are supposed to exercise control over these expenditures, are becoming little more than fiscal conduits. Some States have even gone so far as to formally appropriate private funds—like UGF, and so forth—so they will qualify for Federal matching money.

At this point in time when social services expenditures are expanding at very rapid rates—and vary from State to State with no discernible relation to the welfare population—it appears that the Secretary of Health, Education, and Welfare, estopped by his past actions in approving State plans, is now incapable of taking any effective steps which will restore fiscal responsibility.

3. COMMITTEE ACTION

The Committee bill replaces the provisions of present law under which 75 percent Federal matching is available on an open-ended basis for social services to welfare recipients and persons likely to become dependent on welfare. Beginning January 1, 1973, open-ended 75 percent Federal matching are to continue to be available only for child care and family planning services; moreover not more than 12½ percent of all Federal funds for these two services can go to any one State. Child care services covered by this provision are those needed to enable a member of the family to work (or to take job training) or to provide necessary supervision for a child whose mother is dead or incapacitated. Although the bill does not limit the type of child care which the State can make available or purchase for such children, it does not authorize the States to simply establish or underwrite massive child care or pre-kindergarten programs in low-income neighborhoods (as some States have done under interpretation of existing law) and claim 75 percent Federal matching.

Beginning January 1, 1973, the committee bill replaces grants for social services (other than that for child care and family planning referred to above) by the supplementary sharing grants described in Title I of the bill. As was indicated in the prior discussion, authorizations for those grants of up to $1 billion are provided. These grants are to be allocated among the States on the basis of urbanized population.

For the period between July and December 1972, the Committee adopted a special transitional provision which will benefit those States which now have somewhat larger social service programs by permitting them to maintain their programs at the present level until the end of December 1972. Specifically, for the last six months of calendar year 1972, the State government is to receive (other than for child care and family planning services) the higher of (a) its share of $500 million distributed among States on the basis of urbanized population, or (b) 75 percent of the cost of providing social services between July and December 1972, excluding the cost of any new social services provided after August 9, 1972, and also excluding the cost of any expansion of on-going programs after August 9, 1972.

VI. EFFECT ON THE REVENUES OF THE BILL AND VOTE OF THE COMMITTEE ON REPORTING THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the effect on the revenues of this bill. The bill provides for payments with respect to the first 6 months of the calendar year 1972 of $2.65 billion. For the fiscal year 1973, the payments provided for under the bill are $5.45 billion; for 1974, they are $5.75 billion; for 1975, they are $6.05 billion; and for fiscal year 1976, they are $6.35 billion. In the first half of the fiscal year 1977, payments provided for under the bill are $3.325 billion. No payments are provided thereafter. The costs of administering distribution of funds to State and local governments has been estimated by the Treasury Department as amounting to $11.1 million in the first year and $9.3 million thereafter. The largest cost item listed is for the change on the income tax return indicating the county, township, and municipal residence of individuals plus the cost expected in obtaining compliance with this provision. This cost is estimated at $7.5 million in the first year and $3.5 million thereafter. These costs do not include research and development costs which are believed to be minor but as yet have not been ascertained. The cost of Federal collection of State individual income taxes has been estimated by the Internal Revenue Service as involving processing and compliance costs of $2.5 million per million returns. Overhead and related costs are estimated to increase this by 25 percent. Start-up costs of such a program vary widely according to the number of States electing Federal collection. Estimates of start-up costs vary from $22.5 million, assuming 10 representative States elect the service, while it is estimated that start-up costs would be $33.3 million if all States elected Federal collection. The Treasury Department agrees with this statement.

The Committee bill authorizes appropriations of an additional one billion dollars in annual grants, in lieu of certain social service grants under present law. During fiscal year 1972, grants for social services (other than child care and family planning services) under the Social Security Act totaled about one billion dollars. It is anticipated that amounts for social services would grow rapidly if the present law were not modified.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the tabulation of the roll call vote to report the bill is as follows:

In favor—12 (Messrs. Long, Anderson, Fulbright, Talmadge, Hartke, Ribicoff, Nelson, Bennett, Miller, Fannin, Hansen, and Griffin).

In opposition—4 (Messrs. Harris, Byrd (Va.), Curtis, and Jordan (Idaho)).

Mr. BRADEMAS. I might interrupt you there, Mr. Rutledge.

The only question Mrs. Mink has put to you is that you have now dropped, from your proposed regulations, the requirement that child care, funded under the program, meet the Federal interagency day-care standards. And you have also dropped the requirement that the parents be involved in the selection of child care. You have done this without presenting any evidence to show that these interagency standards are unnecessary or have undesirable effects on the lives of children.

Indeed, if you had such evidence, it would have seemed to be more responsible to come before the Congress, and the country, to present your evidence. Then you could say, openly and honestly, that we need to revise the requirements. That approach would be preferable to simply abandoning established standards for child care provided with Federal moneys.

So, I am very troubled by two matters: One, the procedure—as I have just indicated; and, second, by what is clearly a substantial retreat, it seems to me, from a search for quality in the provision of day-care services.

What you are doing in effect, Mr. Rutledge, is now looking at day care as nothing but—to quote former Secretary Richardson's speech in California, which I remeber very well—the provision of "baby bins" rather than providing for quality services for children. Any comments on that?

Mr. **Brademas**. I will let that pass.

Mr. **Rutledge**. I think there is probably no regulation in this Government in the years that I have been here that has been discussed as widely and with as much public involvement as these have. We have not always agreed about the result, but for a year and a half, there has been continual consultation with professional groups, Governors, and other elected officials to write the standards. We have taken their suggestions and have mandated only three services because the legislation requires these services. These three services are family planning, foster care, and protective services. No services have been mandated in the adult categories. We have told the communities, this package is a toolkit that you can use as you see fit.

We are saying now, for the first time, here are definitions of those tools. We want you to comment on what you think of these definitions and let us know whether there are other considerations that should be made before implementing these definitions.

I spent most of this monring with a delegation of persons who run legal services programs under the title IV–A programs in different States. They were concerned that we did not include a definition of legal services as a social service. We will consider whether we should define legal services as a social service. This reconsideration is part of the purpose of the notice and the comment period. We don't usually have an opportunity to appear before Congress when we make notice of intention to issue new regulations.

Mr. **Brademas**. I have more questions but I know my colleagues want to ask questions. I yield to Mrs. Mink.

Mrs. **Mink**. Thank you, Mr. Chairman. One of the so-called abuses which your new proposed regulations attempt to address, is group participation which your proposed regulations specifically prohibit. Could you tell the committee how many children now receive child care services on the basis of group eligibility?

Mr. **Rutledge**. I will supply that information for the record.

[The information referred to follows:]

The best estimates of the Social and Rehabilitation Service's Community Services Administration is that during FY '73 142,000 children, with the equivalent of 77,000 child care years, will be served through IV–A Social Service funding on the basis of group eligibility. Federal expenditures for this care is estimated at approximately $80 million.

Generally speaking, most States do not include eligibility on the basis of group membership. The elimination of group eligibility refers to all services.

Some services were provided on a group basis if the recipient lived in a given community like Model Cities area or another designated area. Some services were provided on a group basis in which everyone was eligible. At the same time some services were provided on the basis of an individual determination for that specific service.

In many cases, day care was presumed to be a service for which the recipient was eligible until other information was found indicating ineligibility. Now, the purpose of the elimination of that requirement is to eliminate the presumption of eligibility in large groups. Now each individual must be determined eligible before receiving child care services.

These changes are suggested because the amendments to the legislation in the annual Revenue Sharing Act passed by the 92d Congress require, with a few exceptions, that 90 percent of the funds be expended on persons who are current recipients and only 10 percent, with a few exceptions, for persons who may be potential recipients.

With that requirement, we felt it was necessary to have a more rigid requirement for determining the individual eligibility of every person at periodic intervals so we could be sure of the services we are providing to those persons who need it most.

Mrs. **Mink**. Since it has been alleged that this is an abuse, and you not able to provide us with a comprehensive picture could you give us one example of where this occurred?

Mr. **Rutledge**. In terms of group eligibility we are addressing the issue of group eligibility for all services that a community may decide to include in its toolkit.

Mrs. **Mink**. Are you saying this prohibition does not relate to day care services which have been provided under the act up to now?

Mr. **Rutledge**. It relates to those communities in which day care was provided as an eligible service for persons whose incomes would not normally make them eligible; their eligibility was a result of living in that group. Instances in which——

Mrs. **Mink**. Can you provide the committee, if you do not have the figures now you may submit them, the figures demonstrating that this was a practice which needs to be curtailed? To wit, the exact number of children in middle and upper income families that were getting free child care services under the act because they lived in a "neighborhood" which qualified?

Mr. **Rutledge**. We will provide those figures on groups eligibles and what changes this regulation will make.

[The information referred to follows:]

The Community Services Administration of SRS has derived estimates which indicate that between $150 million and $175 million in Federal money is going into funding for social services provided on the basis of group eligibility. Better than half of this expenditure is estimated to be devoted to child care. A major portion of these child care expenditures have been generated by the use of Model Cities funding.

The exact number of children from middle or upper income brackets receiving child care under Title IV–A of the Social Security Act is probably low. Elimination of group eligibility has been discussed since December, 1971 and was part of the draft proposed regulations in late June, 1972. Priority Services for the neediest are obscured through the use of group eligiblity. Group eligibility must be eliminated, moreover, because under Title III of P.L. 92–512, in order to be exempt from the requirement that 10% of services be provided to past and potential welfare recipients, child care must be related to work or to training or to illness, death, or incapacity of the caretaker. This relationship cannot be established on a group basis; hence, group eligibility cannot be continued. Furthermore, in order to respond to Congressional concern about the need for and impact of social services, we must be able to assess individually the effect of providing day care and other social services. Here again, group eligibility would preclude such an assessment.

Mrs. **Mink**. I note from your testimony that one of the other revisions you are contemplating was with respect to removing income eligibility for handicapped children. Would you elaborate on that, please?

Mr. **Rutledge**. One of the areas which we have been examining carefully both before the notice of proposed rulemaking period and since is day care services provided to persons with special handicaps and to the retarded which may or may not be work-related and may or may not relate to the particular income levels that the persons may achieve at that point. Services for the handicapped are long-term services which may be directed more profitably toward the self-sufficiency of the family rather than to self-support.

This service may not lend itself quite as easily as some other things to periodic redetermination.

We are aware that on January 1, 1974, when title 16 goes into effect pursuant to Public Law 92-603, a Federal floor will be set under money payments for the disabled. Also, the legislation when implemented, will have an age limit. As a result of these changes we may be dealing with a different figure than the State income standards in determining eligibility.

There are a number of technical problems about which many persons reviewing these regulations, both in public and private sessions, have talked to us, and we want to consider them.

In fact, we are reconsidering the whole income requirement issue. But there is a special problem with respect to persons with handicaps and the special needs of the retarded.

Mrs. MINK. Are not the handicapped children now under current regulations eligible to participate for child care services?

Mr. RUTLEDGE. Under present regulations, as was pointed out earlier, we use a five-year period to determine when a person may be a potential recipient. We say that, given a person's current situation within 5 years this person may apply for public assistance. It is generally understood this definition of potential over a 5-year period makes it possible for a number of persons to be included in the program. Who couldn't be included if a shorter period were used.

We do recognize that there may be some problems with the current definition, although as we indicated in the session a few days ago in which Secretary Weinberger and I were talking with you, Mrs. Mink, and other Congressmen, that the end of this review period does not mean that reconsiderations stop at that point.

If an agency anticipates that within 6 months a person will be on public assistance, they take a look again after 6 months and even if he is not on public assistance they may determine that within another 6 months he would be on, so support may continue for awhile. But the new regulations would require a look every 6 months.

The same would, of course, be true 3 months after the person went off: Say the person were in a job and after 3 months the person might be sufficiently reinforced, so that he would not be a potential welfare receipient. However, an assessment could be made at that point to determine if in fact he were sufficiently reinforced.

Mrs. MINK. How are the States going to come up with the necessary manpower to do this individual review every 3 and 6 months of every every individual recipient?

Mr. RUTLEDGE. It is possible to redetermine eligibility with relative ease now. In many communities they are performing these reviews on their own. They have developed the management capability to do it.

But I might say that there is nothing magic about those particular periods of time. We do feel that there should be regular and periodic redetermination.

Many States are beginning to do this through computer runs. So, we recognize that requiring reviews would create an administrative burden but we think the increase in administrative efficiency will be worth the cost of ascertaining that services get to those most in need.

Mrs. MINK. The current regulations besides mentioning employment and job training provide that where it is found that a child's family is unable to provide adequate care and supervision for such children, that these services can be provided for.

Now, that is being eliminated, as I understand, under your proposed regulations and therefore what do you do about the currently eligible handicapped child who under the present procedure qualifies for services because the family is unable to provide care and assistance?

When you eliminate that as an eligibility criteria, you endanger the service capacity of the States to provide these services for the handicapped; isn't that true?

Mr. RUTLEDGE. I might ask Mr. Suzuki to comment on this further, but we are attempting to achieve more than the one goal of self-sufficiency including self-sufficiency of this youngster.

After an assessment that this service is needed, it could be provided. But we are still concerned about the categorical relationship. That is, the income level and what other problems exist within the family. We are going to take another look at the standards we have already set in these regulations, but we have not eliminated them.

Mrs. MINK. May I interrupt—can you read from the proposed regulations where the needs of the child are taken into consideration?

Mr. SUZUKI. My first comment on the question raised before is that there is clearly widespread misunderstanding that under the current regulations there is no necessary connections to potential welfare status for children, if they are mentally retarded, physically handicapped, et cetera. That is not true.

In other words, all people who are eligible for services under the current regulations must meet the basic requirements of either being a current recipient, a former or potential recipient. I think that what has happened is that among the potential group there are obviously retarded and physically handicapped children, but it has gotten to the point that many people are convinced that there is access under the regulations for all handicapped children. Access of that type has never existed; that interpretation is part of the problem.

Mr. Rutledge referred to one of the considerations in drafting regulations for child care, particularly for those special handicapped children where, rather than arranging for day care in response to the need of the caretaker for a job, training, employment or to get other services, the need of the child might be the triggering mechanism for making day care available. That is an alternative, a possibility to which Mr. Rutledge referred earlier in this statement.

Mr. RUTLEDGE. That, Mrs. Mink, would be an interpretation of the language in section 221.8 of the proposed regulations dealing with self-support, and self-sufficiency in the individual service plan. This interpretation would include, for children with special needs, the potential for independent living. That is a broad goal which allows for a number of kinds of participants.

Mrs. MINK. I have a large number of questions, but I would like to yield my time and permit my colleague, Mr. Hansen, to present his questions at this time.

Mr. Hansen.

Mr. HANSEN. Thank you. I have two or three questions.

First, with respect to the new proposed definition which as I understand it excludes the health and educational services as well as recreation and meals services—doesn't it narrow the definition of those eligible for this; doesn't it actually have the effect of limiting the ability of the States to set their own priorities?

Mr. RUTLEDGE. I think it may to some extent, Mr. Hansen, but the problem to which we are directing ourselves in these regulations is that of the appropriate place in which to pay for these services.

We have said in the past under the Social Security Act authorized and approved health care services, psychiatric services, feeding programs, and other services when they were actually a part of a more comprehensive effort. We have said in the past that if this care is inseparable and indistinguishable from a larger, more comprehensive program we would pay for it.A lot of money that might be normally used for other services and for programs that are funded under other pieces of legislation tended to soak up the services money. It is easier to justify something like that. We have said that those services that can be funded under other titles should be funded by those titles.

You raise a sticky question which we are examining concerning the payment of food costs when they are a part of an overall program in a day care center. We are not simply paying for the feeding. We are paying for it as a part of a broader educational activity.

We are looking at some of these services to see whether, both based on comments and observations, some of these might still be included. But we think that medical services and mental health services and other kinds of institutional services that we currently reimburse under social security titles should be reimbursed under other pieces of legislation.

Mr. HANSEN. With respect to the provision, the requirement of the 133⅓ percent of the level at which support is furnished, doesn't this requirement have the effect of prohibiting from participation the so-called working poor?

Mr. RUTLEDGE. It does create a problem and it does create difficulties depending on what the State level is. We have it stated in the proposed regulations that the standard—the level will be 133⅓ percent of the standard payment rather than the needs standard of that community. Some States pay 50 percent of what their welfare department says would be the minimum needs. If you take 133⅓ of that, persons are taken off assistance relatively soon.

As many persons have pointed out, because this person got on public assistance instead of being considered a potential, he had to go through the complicated disregard process of earnings. As a result, he did not benefit by getting assistance. We are frequently forcing persons to go through this complicated disregard process.

We want to take a look at the problem of the notch and also at the possibility of computing another standard of need that would take in persons at the working-poor level to which you refer. One of the things that we are considering, of course, is a sliding fee scale where at some point one would begin to make minimum reimbursement for the care and as income rose persons would pay more so that finally they would be paying full cost. This plan is under study. We do realize the problem to which you refer.

Mrs. MINK. Would my colleague yield at this point?

Mr. **Hansen**. Yes.

Mrs. **Mink**. Would you be able to provide the committee now of a copy of your proposed fee schedule?

Mr. **Rutledge**. We have not developed it yet. In fact, when it is developed, yes, Mrs. Mink, we will make it available, should we decide that the fee schedule is a better way to do it than choosing another figure like 133⅓ percent of some other dollar figure. Another suggestion is to use the poverty index that the Social Security Administration uses. There are a number of ways we can do it. But whatever standard we should propose, we will be very pleased to share with you.

Mrs. **Mink**. Do you intend to promulgate them in your final draft if you decide to go that route?

Mr. **Rutledge**. If we do not promulgate it at that time we will authorize the release of such a schedule. After we have issued the regulations, which are generally barebones, we interpret, spell out, and explain the regulations in terms of program regulations which we have referenced and authorized in issuance.

Mrs. **Mink**. Thank you.

Mr. **Hansen**. Does that fee schedule to which you make reference bear close resemblance to the proposed fee schedule for what has been published in the Federal Register?

Mr. **Rutledge**. We are looking at that for some suggestions of how we might proceed. At this time I cannot say that we will use that schedule.

Head Start may have some different objectives in that respect.

Mr. **Suzuki**. In terms of all the people who have been visiting us in Washington since we have gotten into the issue of fee schedules, we have asked a number of operators from across the country to send us what they have found to be workable fee schedules.

Part of the problem is not just the income, but it is where you bring the recipient in and where you topoff. Perhaps we have not been fully engaged with some of the people in the field. We have invited and are getting this information. We want to know what the workable models are.

Mr. **Hansen**. Obviously from your responses, the proposed regulations would be a limitation across the country. I gather, also, from what you say that some of the comments promoting reconsideration of some parts of the proposed regulations are pretty strong.

I would like to know if you could give us a general comment on the types of responses you are receiving. And from what you have received thus far, can you give us any kind of indication what changes, if any, you might anticipate in the final draft?

Mr. **Rutledge**. Yes, some of these we have discussed earlier. Let me quickly, repeat them. We have had a number of comments about the impact of the prohibition against a private donation of funds being used as a match. I pointed out that some Congressmen agree, some do not, others have raised the question of abuse. It is our feeling that we may be able to deal with the questien of abuse adequately in our regulations. We would like to consider them in that light, although this question, which has been raised by some Members of the Congress as to whether the legislation authorizes the Department to accept private funds for matching, may have to be resolved in a different light.

Secretary Weinberger, as well as former Secretary Richardson, has stated that as a principle, the use of donated funds to expand programs is good. We hope we will be able to develop a regulation that would eliminate the abuses and would also satisfy those Members of the Congress who feel that the current method is contrary to congressional intent.

Another area in which there has been heavy comment, is income standards. We are reconsidering those standards. There have been a number of letters describing the impact of shortening the period of former and potential. We are open to suggestions on this area.

Another very emotional issue is that of services which may no longer be available to children with special needs for there was no immediate vocational opportunity for the family. We are looking at that issue again to see what changes might be made there.

A large volume of the mail has been directed toward the fact that some States will not get as much money as they had gotten before because there was originally an inadequate understanding of the ceiling or because some States had never spent their entire allocation. Some States feel that because the legislation authorizes two and a half billion dollars, the States were going to spend $2½ billion.

We asked the States after the passage of that legislation how much they would spend with the requirements that the Congress had written in and their response. When it was totaled, it was close to $2.1 billion.

As we wrote the regulations to eliminate certain kinds of services or to redefine and redirect the program, we assumed that there would be about $200 million less spent than the States had estimated.

A number of States have a statutorily imposed ceiling beyond which they cannot go. New York is an interesting example. No matter what our regulations say, New York will not get more than that share under its ceiling, and that is some 4 or 5 million less than they would expect to get.

Indiana, which was discussed here earlier, under the $2.5 billion ceiling is entitled to $63 million.

Indiana spent $6.5 million last year. We asked them this year how much they would spend under their ceiling without the regulations that we had issued. They indicated $14.7 million. When we included that figure with comparable estimates from the other States we came up with the $2.1 billion.

That means that Indiana, if it spends at the level it projects, will have $50 million of those funds that will revert to the U.S. Treasury, because the Secretary has no authority to reallocate that $50 million to any other State.

It is a situation of that type which makes up the difference between what we think our budget authority is and what the ceiling is. It has nothing at all to do with these regulations.

Mr. HANSEN. Thank you.

Mrs. MINK. Thank you, Mr. Hansen.

With respect to the $2.1 billion that you just mentioned, how much of those dollars will be going to child care programs?

Mr. RUTLEDGE. This year it will be uncertain because we are in a transition period. But under title IV–A, we estimated for fiscal year 1972 291,290 child care years at a cost of $216 million.

Under title IV–B, one of the titles that finances child care, we anticipate 23,000 child care years at a cost of $1.9 million; under the WIN program in 1972, we anticipate 91,700 child care years at a cost of $37 million.

Now, fiscal year 1973 will be a sort of a transitional year because of changes in the regulations, but in fiscal year 1974, we anticipate using those same categories so that under title IV-A social services there will be 430,000 child care years at a cost of $415 million; under IV-B, 20,000 child care years at $1.9 million; and under WIN, 155,900 child care years at a cost of $116.6 million.

Mr. HANSEN. Could I interrupt—this is part of the information that will be submitted?

Mr. RUTLEDGE. Yes.

Mr. HANSEN. Thank you.

Mr. RUTLEDGE. It is in my statement that I submitted for the record.

Mrs. MINK. In response to a question which my colleague, Mr. Hansen, raised, you said that you were not necessarily guided by the fee schedule which was promulgated with reference to the Head Start program, because the Head Start program differs in service aspects from the programs which you administer under this act.

Could you explain what you mean by that?

Mr. RUTLEDGE. Child care services are provided pursuant to the Social Security Act and are not a Head Start type of program. There will be increases in funds for Head Start. It is performing a fine job. Under the child care social security service authorization, we expect to offer a variety of child care services depending on what the needs are.

We hope to be able to offer some choice. This program is directed, as I said earlier, to those persons who are on assistance, and this service will help them get off and stay off assistance.

Head Start, as I understand it, is not as closely related to the public assistance category as this service.

Mrs. MINK. Well, in terms of the services that you are providing the child, though, how do they differ? The services that are now provided the child in Head Start and those provided under this program, how will they differ?

I assume that is what you were referring to when you said that in determining fee schedules we have to take into account different service aspects of the two programs. What I would like to find out for the record is what that service distinction is which will make a difference with reference to the fee schedule?

Mr. COHEN. If I may one thing: The question originally came up in a program where the difference was that the welfare programs were building on State programs that had various income levels, whereas Head Start begins free of that.

So that may lead to some different considerations. There may be more basis for having State by State distinctions in the title IV-A than in Head Start programs. The other aspect is that most Head Start programs have been center programs. That represents only a small proportion of the child care under IV-A.

Mrs. MINK. I would like to go back to the definition of self-sufficiency.

You mentioned this was the direction of your regulations with regard to the needs of children and in your proposed legislation, you define self-sufficiency as achievement of potential for eventual independent living.

Could you relate that to a 3-year old?

Mr. RUTLEDGE. Let me ask Mike to answer that.

Mr. **Suzuki**. Perhaps it is bureaucratise, but I think essentially what that means is to offer the greatest support in the development of the child for living in society.

I think there is a value judgment there, which is the support to the child to the point where, as he grows up, he can look forward to living in a self-supporting capacity.

Mrs. **Mink**. This does not eliminate then the comprehensive child-care services that we included in the bill that was vetoed?

Mr. **Rutledge**. Let me add one other thing on the goal structure. Our view is that the social security services authorization is not the child development act. It is related to certain other specific targets.

But I would like to return just for a moment to the goals stated in this proposed regulation which some people feel are a little different from the goals stated in earlier drafts and illustrate why we spelled the goals out in the form that we did.

We feel there are a number of human services and resource programs that are capable of providing assistance toward helping people obtain certain goal stages within their lives.

We feel that the services under the Social Security Act can do certain things; services under the Public Health Act can do certain other things; services under the Vocational Rehabilitation Act can do other things, et cetera.

So we are attempting to state in broad definitions goals toward which that human services project may be directed. For the purpose of HEW funding, for the purpose of State organization and planning, they will be able to progress around these goals and use other services to reinforce and add to what we have.

In fact, we have submitted legislation to the Congress within this last session, and we will be submitting legislation again in this Congress—I am referring to the Allied Services Act—that lists the goals around which human services in our country should be directed and will give to States and local officials some authority to transfer moneys, with the approval of the Secretary and the Congress, and to waive categorical restrictions as long as they direct the funds toward these particular goals.

It is more than just a bureaucratic concept and a few phrases that we put in, although it may seem that way. We are attempting to establish some common goals among all human resource programs in HEW and other agencies.

Mrs. **Mink**. If a child care program is submitted to your agency, including strong developmental and educational content, will it be approved?

Mr. **Rutledge**. One would have to look at the program. Generally, that kind of project would not be submitted to us because this program reimburses the States running such programs. The question more properly would be: Would the State, under these guidelines, want to set up such a program?

That is iffy. It depends on what the goals are. I think putting the developmental title on it without knowing toward whom and what goals it is directed, one would not be able to answer that.

Mrs. **Mink**. Well, it all goes back to your statement of goals with respect to self-sufficiency. If the States are going to define this concept in the broad terms of what the child needs to be a better functioning human being and to grow up and to be motivated and succeed in life, one would assume that the States would be very much interested in utilizing all the current research in this area which very definitely emphasizes the developmental responsibilities of any child care service.

So I think this is a very, very important deficiency of your proposed rules, if they do not elaborate the needs of the child in terms of the total development requirements.

Mr. Suzuki. Mrs. Mink, there may be a deficiency in its statement. We simply have to reinforce that there is no suggestion that in the provision of child care, we are saying that a State cannot have these things that you refer to as developmental components, the things that children need.

In other words, there may be a deficiency in your saying that it is not that explicit, but certainly we are not saying what you are going to get is "Go out there and deliver bad child care."

In terms of Head Start programs and preschool compensatory programs across the country, many times they are limited to 4 hours a day or so many months of the year.

I think there is a significant difference. A good child care program has to be available from early in the mornings throughout the day into the evening. One of the major hallmarks of some of these other programs is the involvement of the parent figure in the program.

When you talk about child care, you really cannot build the same program if you are talking about child care and the working mother. Head Start and State preschool programs really address the child, in his own home, who has a mother figure there and participating in the process.

So you really get, not a qualitative difference, but a difference of what the purpose of that experience is. Some States blend the two. Nothing that is in here, it seems to me, would suggest that you have bad child care.

Mrs. Mink. I have one final question: I know there are other witnesses to come before the committee, but Mr. Rutledge, the 1972 social service amendments place restrictions on the extent to which States will get Federal funding for services provided to former and potential recipients.

Child care services, however, specifically, were exempted from these restrictions on the proportion of service money going to nonrecipients.

How is it that your proposed regulations now can place restrictions on this?

Mr. Rutledge. We have not replaced anything that the legislation removed. These services are exempted from the 10 percent that might be spent on persons who were former or potential recipients. That legislation did not exempt child care as we interpret it from its categorical relationship.

So though we have defined what is meant by former and what is meant by potential, the States can spend as much as they want within those definitions. They are not tied in.

Mrs. Mink. As I understand the child care services were exempt from any restrictions with respect to former potential recipients. So how can you limit the participation of these children based upon a criteria which the Congress explicitly excluded and exempted?

Mr. Rutledge. Let me take a second shot and I will ask both Mr. Suzuki and our General Counsel to comment on it. That is a very important issue. There has been a volume of mail on this one; many Members of the Congress have discussed it with us.

There is an impression abroad that the exempted categories—family planning, child care, services to the retarded, services to addicts, and a few other areas—were intended as useful services that have no relationship to whether one may or may not become a public assistance recipient.

There may be some Members of the Congress who felt that this is what they were voting for. But an amendment to the legislation has to be taken in the context of that legislation and what it is intended to do.

Our reading of that legislation is that these services may be provided to persons who need them as long as they are likely to become a public assistance recipient. They are not useful services available to anyone who might wish it.

If the Congress has that in mind, it would appear that another vehicle might be needed. Let me ask Mr. Cohen to comment.

Mr. COHEN. This is probably saying the same thing in other words:

As I understand it, the Revenue Sharing Act provision states that in accounting for services such as day care services, within the congressional ceiling, we make no distinctions between recipients on the one hand and the formers and potentials on the other hand.

The new regulations don't make any such distinction. But what the Revenue Sharing Act does not specify is who shall be the formers and potentials. That is what has changed in the new regulations.

Mr. SUZUKI. Mrs. Mink, you are interested, obviously, in developmental aspects of child care. One of the issues in the definition of "child care" is that it's exempt only when it relates to the employment of the mother, or training, or the absence, death or incapacity. If——

Mrs. MINK. And the ability of any member of the child's family to provide adequate care——

Mr. SUZUKI. All right.

So its rests with the status of the caretaker, rather than the child. And it's our understanding of the reading of this language that if we amend the provision of day care for certain children on the basis of their needs, they would not be exempt from the 90–10 requirement, because they would not fit either one of those definitions.

In other words, it really doesn't say "child care for all purposes," but "child care related to those two basic areas," employment or training or the death, incapacity or inability of the caretaker to care for that child.

So, again, we are talking about alternatives to build another type of child care related solely to the child's need. Again, we are stuck with the 90–10 on that one.

Mrs. MINK. Well, thank you very much, gentlemen, Mr. Rutledge, for coming before the committee and responding to our questions. We appreciate it very much. I hope you will take in account very seriously our suggestion that the public at large be given an opportunity to respond to your final draft. You will be hearing from us again.

Mr. RUTLEDGE. Thank you very much, Mrs. Mink. Those of us who have been fighting to keep this program alive for so many years—you know we almost lost the entire program in the last session of Congress—are delighted there are so many people in this country who now support social services. We think that if the mail we have been receiving is any indication of the interest and support, both in Congress and in the community at large, we may well be able to develop a program that the Congress itself will not be so critical of the next time we come up for appropriations.

Mrs. MINK. Let me respond to that: That the reason for the monumental interest in the survival of this program as it exists is because all the other service areas which we are also vitally interested in seem to all be collapsing around us.

Thank you very much.

I would like to call Kenneth Sain, accompanied by Mr. Brooks.

I apologize for holding you here so long. I appreciate very much your indulgence.

STATEMENT OF KENNETH SAIN, DEPUTY MAYOR OF CHICAGO, ACCOMPANIED BY DETON BROOKS, COMMISSIONER, DEPARTMENT OF HUMAN RESOURCES, CITY OF CHICAGO

Mrs. MINK. I believe we have your testimony and it will be entered in the record. You may proceed as you wish.

STATEMENT OF KENNETH SAIN, DEPUTY MAYOR, CHICAGO, ILL.

My name is Kenneth W. Sain and I am the Administrative Officer of the City of Chicago. I welcome this opportunity to appear before your committee to present to you some facts concerning proposed changes in funding and guidelines for Titles IV-A and V of the Social Security Act.

Our staff working in the areas directly affected by the proposed changes have made careful analyses and I am able to present to you today the total impact of the proposed changes as we see it.

However, before I go into the detailing of facts, I wish to say that the City of Chicago welcomes the opportunity to have greater control over programs since we have a great deal of experience in operating programs in these fields, many of which have become models for the rest of the nation. But I do question the federal policy of expecting its cities to take on more of decision making while at the same time providing less to decide about. If we are to receive less money from the federal government, it follows that we will accomplish less. In addition, we feel strongly that the effect of the proposed guideline changes will adversely affect our ability to carry on services vitally needed by the people of our community, particularly those in the lower economic strata who cannot fend for themselves.

It should be pointed out that even under the existing funding of Title IV-A Day Care in Chicago, 88% of children under 6 whose mothers work have no opportunity for day care. This number equals 97,456 children in the City of Chicago, who for the most part are either latch-key children, those who are left to the streets with a key around their neck, or they are left home with an older brother, sister or perhaps a friend to watch over them. In effect, any cutback in the present programs would increase this number and encourage illegal and improper underground day care type service.

Chicago has licensed day care facilities for only 15,000 children or 13,7% of those children in need of day care. Of these licensed day care centers, 7,568 children are in not-for-profit centers where care is either free or on a sliding scale for poor families.

Only 4,258 of these slots are funded either totally or in part by Title IV-A. We need more Title IV-A funds—not less. Under the new eligibility standards, the city would have day care slots for about half of these children or 2,329.

The proposed definitions of eligibility and the requirements for constant redetermination of eligibility are much too restrictive to accomplish the state objectives and these definitions eliminate virtually all past and potential recipients from the program. The limited definition of past recipient as one who has received welfare within the previous three months is too narrow to offer any security or stability to an individual who leaves the welfare roles and would in many cases lead to an almost immediate return to dependency. The definition of potential recipient is even more restrictive. The automatic elimination of services as soon as income exceeds ⅓ of the state's financial assistance payment level or when resources exceed permissible levels for financial assistance would arbitrarily exclude individuals and families before they reach a point of self-sufficiency and would then again result in returns to dependency. This would have a devastating effect on the poor, those who are now trying to become or maintain some self-sufficiency. In requiring frequent redetermination of eligibility, that is, every 90 days for past and current recipients and every six months for potential recipients, the proposal would create an administrative nightmare, which at best would delay services and would almost certainly deny services to many. They would intensify the movement of recipients in and out of services. Further, they would result in new and unnecessary harassment of recipients and can only be interpreted as intended to discourage people from seeking services.

The end all effect of this denial of childcare to a broader range of past and potential recipients may well be the single most important factor in preventing the self-dependency which regulations purportedly seek.

As the absolute prohibition against the use of donated private funds or inkind contributions arbitrarily eliminates an estimated $150 million in social service expenditures and terminates many of the most effective local programs; it also challenges the President's own expressed concern about too much public intervention in childcare in his stated personal preference for day care provided through private sources. We should encourage this type of partnership between private donations and public agencies rather than discourage it.

In effect, in Chicago, there is an unserviced need, at present, for day care slots or 97,456 children. Under the terms of the legislation we will increase this number by 2,400 children who, although presently enrolled in Title IV-A centers, would become ineligible if the proposed means test is enforced.

Attacking our problems with this kind of approach doesn't seem very logical nor does it seem very humane.

The Chicago Outdoor Education Camping Project funded under Title IV-A combines camping and education to strengthen families, foster individual development, and increase communication between groups of diverse backgrounds. In the summer of 1972, almost 6,400 youth aged 8 through 14 participated in the project. Donor funding of $150,000 was comprised of $90,000 from the Community Fund and other private sources (Fund for the Advancement of Camping) and $60,000 from the City of Chicago, Department of Human Resources. The Title IV-A matching was $450,000 for a total project cost of $600,000.

Newly proposed social service regulations would restrict eligibility to youth of families receiving ADC, prevent youth of near poor families living in poverty and Model Cities areas from participation, and prohibit the use of private funds as local matching. The total effect of these restrictions would virtually eliminate the program or at best reduce its impact by almost two-thirds.

Directing our attention now to Title V, we find again that our basic concern is not with the level of funding that has been proposed nationally, but rather with the formula under which funds will be channeled to Chicago. The two Title V programs which we are most urgently concerned with are our Maternal and Infant Care Project #502 and our Child and Youth Care Project #601 which are presently supported by more than six and one-half million dollars per year of Title V funds matched by a very high proportion of local money.

In 1965, when the Maternal and Infant Care program was started with intensive services to high risk patients, the overall infant mortality rate in Chicago was 33 per 1,000 live births. By 1972, the death rate for high risk children in this program had been reduced to 18 infant deaths per 1,000 live births, which is dramatic testimony to the vital importance of this program to Chicagoans. With the funding reductions that we have been told to anticipate in FY 1974, we expect to have to curtial Maternal and Infant care services, depriving 5,200 women and 700 children of this service.

We have a similar problem with our comprehensive Child and Youth Care Project #601 which now provides a full range of ambulatory medical care services to 60,000 children through age 13 in three impoverished inner city neighborhoods. Under the proposed formula distribution of Title V funds in the future, Chicago may be forced to discontinue these vital services to as many as 20,000 children, most of whom have virtually no other source of basic medical care services on an outpatient basis.

In the past, both our Maternal and Infant Care and our Child and Youth Care projects have been funded by direct categorical grants without regard to a national state-by-state formula allocation. Starting July 1 of this year, direct funding of these programs will be discontinued. Funds that in the past had been distributed directly to Chicago and number of other cities will be added to the pool of money proposed to be allocated to states on a formula basis. Under this formula, the amount coming to the State of Illinois will be less than at present, and Chicago's portion will represent a ⅓ reduction or a loss of approximately $2,225,000 annually.

I have dealt in this testimony with many figures because this committee is entitled to receiving the facts. I feel the figures I have presented to you speak most dramatically of the impact the changes in funding and guidelines will have on Chicago.

All that remains to be added is the impact we cannot measure, and that is the number of persons we will drive into or back to welfare because we deprive working mothers of day care services, or because we deprive a youngster of the opportunity to receive educational benefits. As in the case of the maternal care programs, we are dealing not with statistics but in life itself.

Also, by withdrawing services once used by the people, we are depriving them of hope and reinforcing the attitude which already exists in poor neighborhoods, that the government doesn't care if they live or die.

Therefore, the City of Chicago urges your committee to give most serious consideration to maintaining the guidelines we have at present in Section IV-A and restoring the direct grant approach of funding cities under Title V.

The City of Chicago as all other cities should be urging the Congress for more funding because our needs are increasing and because the money would be well spent as we in the cities, and particularly in Chicago, have established the programs and the personnel to provide the services efficiently and humanely. Certainly in the absence of additional funds, it should not be necessary to plead that the current funds not be reduced.

Mr. SAIN. Thank you very much, Madam Chairwoman; it's a privilege for me and Dr. Brooks to represent not only Chicago and the mayor of the city, but the Doctor is also representing his professional organization.

I would like to briefly read the statement and then make a brief remark thereafter. My name is Kenneth Sain, administrative officer of the city of Chicago. I welcome this opportunity to appear before your committee to present to you some facts concerning proposed changes in funding and guidelines for titles 4(a) and 5 of the Social Security Act.

Our staff, working the areas directly affected by the proposed changes, have made careful analyses and I am able to present to you today the total impact of the proposed changes as we see them.

However, before I go into detailing of facts, I wish to say that the city of Chicago welcomes the opportunity to have greater control over programs, since we have a great deal of experience in operating programs in these fields. Many have become models for the Nation.

I do question the policy of having the cities take on the responsibilities of these. If we are to receive less money from the Federal Government, it follows that we will accomplish less. These changes will adversely affect our ability to carry on services vitally needed by the people of our community, particularly those in the lower economic strata who cannot fend for themselves.

It should be pointed out that even under the existing funding of title 4(a)—day care in Chicago—88 percent of those children under 6 whose mothers work have no opportunity for day care. This number equals 97,456 children in the city of Chicago who for the most part are either latch-key children—those left to the streets with a key around their neck—or they are left at home with an older brother, sister, or perhaps a friend to watch over them.

In effect, any cutback in the present programs would increase this number and encourage illegal and improper underground care type services.

Chicago has licensed day care facilities for only 15,000 children, or 13.7 percent of those children who need day care in our city, which number is 113,000. Of these centers, 7,568 children are in not-for-profit centers where care is either free or on a sliding scale for poor families.

Only 4,258 of these slots are funded either totally or in part by title 4(a). Actually we need more title 4(a) funds, not less.

Under the new eligibility standards this city would have day-care slots for about half of these or approximately 2,300. The proposed definitions of eligibility and the reouirements for constant redetermination of eligibility are much too restrictive to accomplish the stated objectives, and these definitions eliminate virtually all past and potential recipients from the program.

The limited definition of past recipient as one who has received welfare within the previous 3 months, is too narrow to offer any security or stability to an individual who leaves the welfare rolls, and would in many cases lead to an almost immediate return to dependency.

The definition of potential recipient is even more restrictive. The automatic elimination of services as soon as income exceeds one-third of the State's financial assistance payment level or when resources exceed permissive levels for financial assistance, would arbitrarily exclude individuals and families before they reach a point of self-sufficiency, and would then again result in returns to dependency.

This would have a devastating effect on our poor, those who are now trying to become or maintain some self-sufficiency.

In requiring frequent redetermination of eligibility, that is, every 90 days for past and current recipients, and every 6 months for potential recipients, the proposal would create an administrarive nightmare which at best would delay services and would almost certainly deny services to him. They would intensify movement of recipients in and out of service. Further, they would result in a new and unnecessary harrassment of recipients, and could only be interpreted as intended to discourage people from seeking services.

The end-all effect of this denial of child care to a broader range of past and potential recipients may well be the single-most important factor in preventing a self-dependency which the two regulations purportedly seek, as the absolute prohibition against the use of donated private funds or inkind contributions arbitrarily eliminates an estimated $1.5 million in social services expenditures, and terminates many of the most effective local programs.

It also challenges the President's own expressed concern about too much public intervention in child care and his stated preference for day care provided through private sources.

We should encourage this type of partnership between private donations and public agencies, rather than discouraging it. In effect, in Chicago there is an unserviced need today for day care slots for 97,450 children. Under the terms of the legislation proposed, we will increase this number by 2,400 children, who, although presently enrolled under 4(a) centers, would become ineligible if the proposed means test is enforced.

Attacking our problems with this kind of approach doesn't seem very logical. Nor does it seem very humane.

The Chicago outdoor educational camping project funded under title 4(a) combines camping and education to strengthen families, foster individual development, and increase communications between groups of diverse backgrounds. In the summer of 1972 almost 6,500 youths aged between 8 to 14, participated in this project. Donation or funding was approximately $150,000, comprising $90,000 from the community fund, $60,000 from the city of Chicago Department of Human Resources. The title (a) matching was $450,000 for a total project cost of $600,000.

The newly proposed social service regulations would restrict eligibility to youth of families receiving ADC.

To prevent youth of near-poor families living in poverty and Model Cities from participation and prohibit use of private funds as local matching. The total effect of these restrictions would vitally eliminate the program or at best reduce it by its impact of almost two-thirds.

TITLE V

We find again our basic concern is not the level of funding proposed nationally, but rather with the formula under which the funds will be channeled to the city. The two title V programs which we are most urgently concerned with are the maternal and infant care and child and youth care project presently supported by more than six and a half million dollars per year of title V funds matched by a high percentage of local money.

In 1965 when the maternal and infant care program was started with intensive services to high risk patients, the overall infant mortality rate in the city was 33 per 1,000 live births, By this year the death rate for high risk children in the program has been reduced to 18 infant deaths per 1,000 live births. This is a dramatic testimony to the vital importance of the program to Chicago.

With the funding reductions that we have been told to anticipate in the fiscal year 1974, we expect to curtail maternal and infant care services depriving 5,200 women and 700 children of this service.

We have a similar problem with the youth care project which now provides a full range of ambulatory medical care services to 60,000 children through age 13 and in three neighborhoods. Under the proposed formula distribution of title V funds in Chicago in the future—we would be forced to discontinue these services to as many as 20,000 children, most of them with virtually no other source of basic medical care on the outpatient basis.

In the past, both maternal and infant and child and youth care projects have been funded by grants without regard to a national State by State formula allocation. Starting July 1 of this year, direct funding of these programs will be discontinued.

Funds in the past distributed to Chicago and a number of other cities will be added to the pool of money proposed to be allocated to

States on a formula basis. Under this formula the amount coming to the State will be less than at present and Chicago's portion will represent a reduction of one-third or a loss of approximately $2,225,000

I have dealt in this testimony with many figures because this committee is entitled to receive the facts. I feel the figures I have presented to you speak most dramatically of the impact changes and funding will have on Chicago.

All that remains is the impact we cannot measure. That is, a number of persons we will drive into or back to welfare because we deprive working mothers a day care service. In Chicago we have over 70,000 working mothers. Or because we deprive a youngster the opportunity to receive educational benefits. As in the case of maternal care programs, we are not dealing with statistics, but with life itself.

Also, by withdrawing services once used by people, we are depriving them of hope in reinforcing this attitude, which exists in poor neighborhoods, that government does not care if you live or die.

Therefore, the city of Chicago urges your committee to give most serious consideration to maintaining the guidelines we have in 4-A and restoring the direct grant approach of funding cities under title V. The city of Chicago, as all cities, should be urging the Congress for more funding because our needs are increasing and because the money would be well spent, as we in the cities, and particularly Chicago, have established the programs and personnel to provide the services efficiently and humanely.

In the absence of additional funds, it should not be necessary to plead that the current funds should not be reduced.

I was very interested to hear the remarks brought forth before this committee pertaining to the national Government's posture in this particular case. It seems to me on a number of the items we in the city of Chicago agree with some of the statements made.

A statement was made there is a great deal of information and misinformation. We totally agree with this, Mr. Chairman. We agree with the fact that the city of Chicago is ready and willing and able to come to the national Government with facts and figures to set the record straight.

We heard from the national Government that there is going to be a redirection of services and we certainly agree with this. There is a redirection. A redirection from a government of helping people, a friend of the people, somebody with concern, not only to a government that does nothing or is a stranger to people or is disinterested but we are moving to a government that hurts people, that is enhancing in people the feeling that government is their enemy and that it only exhibits distaste and distrust.

We heard also today testimony before this honorable committee that the Federal Government is managing this program for the first time. Well, I would just advocate we should all thank God that the Federal Government is not managing our cities. We heard a lot about elimination of abuses. I think the abuses that we hear are the abuses that are coming from the guidelines themselves, statements saying that while some States abuse us—well, I can stand here and tell you that the city of Chicago, the State of Illinois, has not and would not and will not abuse any of these programs.

We heard some commentary about the notch problem, that those people now because if they are one-third over assistance given by the State, you will not be eligible—well, I think it is more than a notch problem. In Illinois, when we start taking this problem and putting it up against the fact we find a woman with a family of four receives $244 assistance, under these new guidelines it means if she makes over $80 more, which would bring her to $320 a month, she is no longer eligible. To provide the same services we are providing in Chicago would cost them $150 per month per child. We say that, well, it is going to help the people at the low end of the spectrum.

Well, I have to agree with this, Mr. Chairman, this is an infinite philosophy that eventually everyone will be at the low end and therefore they will all be eligible for these services. But if this is the philosophy that is bringing to Congress and to our President and to our people self-sufficiency, I would immediately question it.

We heard finally the statement, well, a number of persons will not be cut. I think the testimony that we have given here is a number of persons will be cut. I emphatically state to you that we in the city of Chicago cannot take on the certification through a county board or through county public aid, and recertification of eligibility. We could not do it right now and I even question the aspect could we do it later on.

What we are asking our people to accept is a regressive cycle of turning your back on welfare and not moving toward self-sufficiency. I think what government should do, as I know the mechanics of this committee are very concerned with, is helping people.

Thank you very much, Mr. Chairman, and Congresswoman.

Mr. Brademas. Thank you very much, Mr. Sain, for a most eloquent statement.

Before calling on Mr. Brooks, I do want to say that your distinguished representative from Chicago, Congressman Rostenkowski was here earlier, and he wanted me to express his apologies that he could not remain because he has other committee responsibilities.

Mr. Brooks, you have been here before. We are glad to have you. If you could summarize your statement, we are going to run out of time very shortly.

Mr. Brooks. Surely. I am not going to—with your permission, I will file the statement and merely summarize.

Mr. Brademas. Fine.

[Mr. Brooks' prepared statement follows:]

Statement of Deton J. Brooks, Jr., Commissioner, Department of Resources, Chicago, Ill.

My name is Deton J. Brooks, Jr. I am the commissioner of Chicago's Department of Human Resources. Today, I am testifying as president of the National Association for Community Development.

NACD's membership is composed of workers and administrators directly involved in every area of human services effected by the administration's budget cuts. I want to emphasize that the membership of NACD is not interested or protective of welfare concepts that might be characterized as handouts. We are interested in, and our energies are directed toward the development and implementation of strategies and programs which will help people to become self-sufficient.

The association was started in 1965 and its membership cuts across each of the ethnic and racial minority groups seriously hit by the cuts, in addition to the poor and working poor. NACD contends that the proposed social services regulations run counter to the intentions of its original congressional architects. The regulations currently in force resulted from factual testimony which showed conclusively that a holding action welfare system can not get people off welfare—and keep them off.

NACD views the restrictions in the social services regulations in the full context of human services programs emasculated by the administration's domestic proposals. The thrust of the cuts will return the nation to a concept of welfare which was thoroughly discredited decades ago.

Either that, or it pushes us forward to the concept of society projected in George Orwell's novel, 1984. It means a return to a welfare system based on minimal maintenance standards with maximum red tape and no structural ladder for the poor to enter the mainstream of American society. It marks the end of our nation's long and often harshly argued attempts to open its doors to all of its citizens.

The comparison to 1984 is not one I bring lightly to this issue. At stake is a concept of society which provides hope and a structure encouraging upward mobility to all, versus a negativism out of which a class of impoverished untouchables can be the only logical end result.

If the administration's proposals go unchecked they will effectively represent a life sentence of poverty for the great majority of America's 14 million public aid recipients and it will threaten the futures of 56 million others precariously perched on the borders of near poverty.

Much of my professional background and the studies I have undertaken have been concerned with determining the causes of dependency. In carrying out my studies I have been one among many social scientists and legislators to conclude that rehabilitation is vastly superior to mere maintenance programing. It at least offers a possible solution to a situation in which the continuing expenditure of funds and waste of life can be ended.

I would point out that the rehabilitative approach which is largely at issue in the new regulations comes at a time when its success or failure has not been decided. These approaches only began in the early sixties and we have not had an opportunity to evaluate their total effectiveness.

In order to assess the national impact of the proposed regulations we have amassed the number of people potentially eligible under present regulations and compared those against an estimate of those persons potentially eligible under the proposed regulations. The potential impact has been defined as the difference between these figures.

By reducing the family income criteria from $7,500 for a family of four to a level only one-third above a State's average financial assistance payment level (roughly $2,200 for a family of four nationally) over 56 million persons will be potentially deprived of the services by this legislation.

By eliminating the criteria for eligibility on the basis of residence in low income areas, the new regulations potentially deprive several million more persons whose incomes may be slightly above the means test but live in the socially and economically deprived areas.

Special target groups defined by the types of mandatory and optional services covered by the legislation which may be significantly reduced are as follows:

Over 10 million children under six may be deprived of day care services.

Over 1.3 million women in the labor force may not be able to keep their jobs or find employment if they are locking for work because child care services may not be available.

Over one million youth 10 to 16 years of age who have had contact with the police and may be potentially delinquent and dependent may be deprived of protective care, counseling and remedial supports they need.

Over 900,000 youth 16 to 21 who are high school drop-outs not working and in need of job training and/or educational programs may be deprived of these services with the new regulations.

Over 1.3 million persons 16 and older are unemployed and need job and skill training which they may be deprived of by the new regulations.

Over 3.6 million single-parent families, many with marginal incomes attempting to raise their children and hold the family unit together may be unable to because such services as home management and other functional educational services are no longer available to them.

Over 11.4 million adults who have 8 years or less of education completed but whose incomes again are marginal may not be eligible for adult literacy and educational programs which could increase their chances of either additional income and/or achieving a less dependent status.

Over 1.4 million families residing in overcrowded conditions may be deprived of housing and home improvement services by the new regulations.

Over 5.3 million senior citizens aged 65 and older may be deprived of the multitude of social services they so desperately need because their incomes are slightly higher than the proposal regulations allow.

These are the areas directly under siege by the cuts. The proposed regulations attempt to decrease federal priorities for human services by restricting the eligibility, by limiting the number of services that will be provided, by intensifying the bureaucratic process overseeing review of eligibility, and by forbidding private sector contributions to local matching grants.

The proposed regulations further attack national human priorities by eliminating agency requirements to actively publicize the availability of services and by removing requirements for State governments to extend or improve services, to develop alternative sources of services, or to mobilize local resources to provide expanded services.

Implementation of these regulations is ostensibly aimed at limiting Federal expenditures and the strategy has been worded so as to greatly blur the underlying fact that National human priorities set by this Congress and by past Administrations are being subverted. The proposed regulations even run counter to at least two of the stated principles of the Administration's own new Federalism: greater local options and lowered Federal administrative costs. The latter inconsistency of principle will be soon spelled out in mountains of paperwork that will be generated in the manufacture of service plans for each recipient, and by the frequent review of eligibility.

We must remember also that the attack on human priorities embodied in the new regulations is only part of a broad strategem that also has as its objective the removal of citizen participation in advisory capacities helping to develop and implement programs furthering human development. Just as the proposed termination of OEO's funded community action program destroy citizen participation in the anti-poverty effort, so the new social service regulations effectively destroy citizen involvement by removing all requirements for States to maintain advisory committees except in one case.

That one case involves day care services and an interesting revision takes place there with the committees remaining operative, but with the requirement that they be composed of one-third recipients completely removed. In other words, there will be citizen participation for day care but the crucial bond of self-determination as a criteria for involvement will be removed. Further, the authority of the new committees in developing and implementing programs is gutted by the vague role definition given them.

The administration's attempts to destroy community action are a recurrent theme throughout the deceptive shambles of the budgetary cutbacks. Yet, community action has been without doubt the most effective strategy operating against the welfare syndrome.

Another positive consequence of shifting society's thrust toward rehabilitative approaches has been the whole process of institutional change. No one would today deny that the vast majority of our private and public institutions and agencies have not become more accessible for all Americans. Institutions have learned from the community action model to reach out and to take counsel from the people they serve.

Yet, the new regulations close the door on further development of this aspect of positive change. Institutions have seen, for example, the advantages of the paraprofessional concept of employing residents of a community. They have learned that these people bridge the communications gap between a disadvantaged community and an institution's professionally trained staff.

Now thousands of paraprofessionals will lose their jobs in the cutbacks; lose their new start toward self sufficiency; and will be plunged back toward public assistance and hopelessness.

In summary the unfortunate fact at the heart of the administration's human service cutbacks is a drastic lowering of a national concern for people and the image of the family. The withdrawal from a humane domestic program is being carried out in a manner which encourages every level of government—every level of business and industry—to follow suit.

The issues have been blurred in the name of fiscal management. The American people—the so-called vast silent majority—do not know that their lives will be materially effected by these changes. The poor on welfare will be walled off from hope; the working poor will be totally disenfranchised and many of them will find themselves back on public assistance, a last chance to raise their families toward a new independence stolen from them for perhaps decades. The middle working classes—already in the midst of the dynamics of social change which is restructuring urban and rural life to the very roots—will be deprived of a rational means to adjust to new social and community pressures.

As yet the administration has presented no firm strategies, no detailed alternatives to the lowering of concern for family life in America. Until these alternatives are presented, until there is a dialogue between the people of America and the administration on these alternatives, we cannot embrace the strategies offered to us as in the national interest. In this context the proposed social service regulations must be assessed, not on the millions of dollars they save—but on the millions of lives which they waste.

Mr. **Brooks**. No. 1, I will speak today—I think my colleague has spoken very well on the problems that relate just to Chicago. I will try to speak from the point of view of the National Association of Community Development, of which I am president, from the national point of view as well as from the city of Chicago.

This is an organization which is composed not only of administrators and workers and lay people concerned, but all aspects of human services are represented.

We have been concerned as the Congresswoman pointed out a few moments ago, concerned with the idea that we have a number of these services being cut in all levels of the domestic programs of the country.

I would like to emphasize a number of things. One, the social security amendments they established were not adopted lightly, as you know, by this Congress. They had come as the result of some 25 years of study, from the time the first public assistance programs had been enunciated up to 1962 when there was this distinct change from the idea of handing out of money to getting at the causes of dependency and attempting to address themselves to the rehabilitative aspects of this problem.

As you know, they have been extended because we feel these aspects were completely in order and that they are the kind of things we should be addressing ourselves to in this country.

Two, flexibility of these particular programs did provide for a community to put a mix together or for a State to put a mix together of programs in such a way you could combine training for families as well as the day care facilities for holding children at the time he needed to be held while the parent is trained or what have you.

I want to point out that this was based on a body of research on which I had an opportunity to be a party to. We did determine what the causes of dependency were and we worked from that particular point of view.

I will never forget one study we called the blackboard curtain, and in which we pointed out that here were families devoid of cultural experience and these families—how could they hope to train their children in the culture of American society even before they went to school? They were handicapped before they got there.

We posed this proposition that it was necessary not only to have a day care program or custodial day care programs in effect for the purposes of having a chance for the mother to work but you needed these also to allow better childhood development.

Mr. Rutledge pointed out that wording. Mr. Rutledge has been a very able colleague. As a matter of fact, he was the secretary-treasurer of the same organization of which I am president now.

I want to assure you that they have never asked us in this organization to give our inputs into what we felt might be a good program for the children and the day care programs nor has——

Mr. **Brademas**. Could I interrupt you there? Does the antecedent to the pronoun, us, refer to the organization you represent or the city of Chicago?

Mr. **Brooks**. Neither the city of Chicago nor the professional organization on the national level which I happen to be president of. Neither one nor the other.

As the commissioner of the department of human resources—if this input had been requested from the city of Chicago, certainly I would have been one of those that would have been party to making that input.

I want to point out one other thing. The kind of regulations they have pointed out here can be, as the Congresswoman pointed out, an administrative monstrosity. I have been the administrative assistant to the commissioner of welfare of New York City for some years. I came back to Chicago as director of research and statistics for the Cook County Department of Public Aid. Let me assure you that the means test and methods by which the test is carried out becomes a political—becomes a monstrosity. The fact that they talk about reexamining within 3 or 6 months is a problem.

Anyone who has had experience with these programs knows this was never able to be accomplished because you could not get the manpower to accomplish this type of thing. I am not so certain, sir, whether or not as Mr. Rutledge pointed out, whether it is a direction—yes, it is a direction. I do not know whether it is a regressive direction in which we have gone back to the 1930's and 1940's and 1950's or whether it is a forward thrust in the spirit of Orwell's 1984 in which the poor will be locked into a system in which it will be so static that they cannot get out of it.

I think there are these inherent dangers in the new approach conceptually. It is an approach which is punitive, not an approach which will develop the people that we like.

I will stop here so you can have the chance for questions.

Mr. **Brademas**. I want to say how much I appreciate the statements of both you, Mr. Sain and Mr. Brooks. They are very powerful indeed.

What is, I think, quite revealing, is that here are you—representatives of the people of one of the Nation's great cities—expressing your sense of outrage at the impact, on the human beings who live in your cities, of the proposed regulations that we are here discussing.

You go on to say you have not even been consulted in your communities on the effect of these regulations.

I cite this in view of all the rhetoric we hear, out of the Nixon administration, about why revenue sharing is important because it devolves upon persons at the local level with decisionmaking responsibility.

But without getting into the merits of revenue sharing—which, in my view, are very few indeed—I must say that what the administration does speaks much more eloquently than what it says about allowing decisionmaking to go on at the local level.

The only other observation I would make is that I take you to be saying two things at least: First, it would drive more women presently working back on welfare; second, it would mean that more children would have to be in day-care services, that is, custodial care, as distinguished from care of higher quality that can hopefully mean improved development in the lives of those children.

So, on those two counts, I think the impact of the regulations is very retrogressive and backward looking. That is just my reaction.

If you can tell me if I have been inaccurate in getting the thrust of your statement, I hope you will straighten me out.

Mr. **Sain**. You have been very accurate, Mr. Chairman.

Mr. **Brooks**. Mr. Chairman, you have not only been accurate but when you think of the communities and the youngsters that live in low-income projects—they may not be eligible under these new sets of regulations.

You can see how appalling this thing can be, sir.

Mr. **Brademas**. I hope you will forgive me. I have to excuse myself for a few moments, but the Chair will be in the very able hands of the gentlelady from Hawaii.

Mrs. **Mink**. Thank you very much. I want to commend you for your statement and needless to say, I am in full accord and sympathy with what you say. I hope you will join us in our demand to the Secretary of HEW, that when he does promulgate the final draft of these regulations, that the community will have a further opportunity to respond and comment.

I think they are so far-reaching, and so comprehensive, that this is the very least they can provide interested parties.

Mr. **Brooks**. One further comment, if I may; Madam Chairman, I received a letter, last week, as the national president, from the new Director of the Budget in which he assured us that even though they were cutting our certain programs, like the OEO program, that there would be more money for these human services, and they would be distributed to the duly constituted agencies that were supposed to administer programs of this type.

I think this is certainly shining evidence in this particular program that at least, here, I do not see where there is more money or more services.

Mrs. **Mink**. I quite agree.

Thank you very much.

I would like to call Ms. Georgia McMurray, of New York City.

STATEMENT OF GEORGIA McMURRAY, COMMISSIONER, NEW YORK CITY AGENCY FOR CHILD DEVELOPMENT

Mrs. **Mink**. I hope you will understand and I apologize for the late hour. Your statement, Ms. McMurray, will be placed in the record.

Also, the analysis, which you have provided will also be entered into the record at this point.

TESTIMONY SUBMITTED BY GEORGIA L. MCMURRAY, COMMISSIONER, NEW YORK CITY AGENCY FOR CHILD DEVELOPMENT

Good afternoon, Mr. Chairman. I am Georgia L. McMurray, Commissioner of New York City's Agency for Child Development.

I welcome the opportunity to appear before the House Select Committee on Education and I am most grateful to Congressman Brademas for the understanding and compassion he has shown over the past fifteen years for our country's children. This hearing, like others that have gone before and others that are sure to follow, demonstrates not only heightened *public* awareness to the needs of children and their families but also *official* awareness of government's responsibility for meeting those needs.

The Agency for Child Development has subjected the proposed HEW regulations on Title IV–A reimbursement for day care to close scrutiny and analysis. Our findings reveal that, if enacted, they will undoubtedly increase the welfare rolls, create an unwieldy, expensive administrative bureaucracy and, inevitably cause disastrous social and economic upheaval to the very families who use subsidized day care as a survival mechanism.

In New York City, where by the end of June 1973, the Agency will be serving almost 40,000 children in Federally-reimbursable day care programs, 88 percent of our user families are working, in training programs, or are looking for work. The remaining 12 percent use day care for a variety of social reasons. The mother may be ill or unable to care for her children because she is an alcoholic or a drug addict. In many instances, day care may be a real alternative to placement in a foster home or institution.

You may be interested in the relative costs of providing these child care services. Top cost for New York City's quality day care program comes to about $3,000 a year. Foster home care costs about three times as much. An institutional placement for a child runs as high as $25,000 a year. When it comes to options—on cost alone—these figures speak for themselves.

Traditionally, publicly-subsidized day care in New York City has been provided as a service to the working poor for no fee or for $2 a week. Day care fees are based on an analysis of a family's income, taking into consideration costs such as food, clothing, shelter, medical and other work-related expenses that are absolute necessities.

We base our fee schedule on disposable income after deductions for basic expenses are made. In this way, we maintain the priority of low-income families for day care services and, at that same time, do not penalize the upwardly-mobile family.

An analysis of the incomes of the families we serve and the fees they pay indicates the following: 42 percent of our families are public assistance recipients and pay no fee at all. Most of them work but still need supplemental assistance. Another 40 percent pay $2 because they earn less than $8,000, the remaining 18 percent pay anywhere from $3 to $25 a week depending on their income which may go up to $13,000. In all, there are probably no more than 400 families out of the 34,000 served that are at the $25 level. And these are families where the child's need outweighs the family's financial status. The average cost of child care in the private market is about $30 a week.

We view day care as being as much an income maintenance program as public assistance itself, in that day care offers publicly-subsidized health, nutrition, and social services as well as child care to families who could not otherwise afford them. We perceive our program as one that prevents family disruption rather than one that offers services after the damage is done.

We are as proud of our accomplishments as we are aware of what we must yet accomplish.

In a Nation where 50 percent of all wives work, where there are more than 7 million single-parent households, and where the median family income is only $11,581 for a two-parent households and only $5,780 for single parent households, any reduction in the availability of publicly-subsidized day care would be an even greater reduction in the American family's ability to remain economically independent.

In a nation where there are 6 million pre-school children and millions more school-age children who have working mothers, any reduction either in the quality or availability of licensed day care programs means that millions more children will continue to be deprived of essential services in their formative years.

For these reasons, we are most concerned about the narrow definition of income eligibility in the proposed regulations and the utter lack of definition with regard to program standards.

The definition of both the former and potential recipient is much more restrictive in the proposed regulations than in the current ones. Now, potential welfare recipients may be defined as those who are likely, within five years, to become recipients of financial assistance. The proposed regulations limit this category to "those likely to be on welfare within six months."

Neither definition, however, has any real meaning, until it is related to specific income criteria. Herein lies the essential difference between the current and proposed regulations. Under the current regulations, each State, with approval by HEW, is allowed to define *need* according to its own income criteria. The new regulations will set one income definition for all States and tie it into the public assistance level by limiting services to an individual whose income is no greater than 133⅓ percent of what he would receive on welfare.

In New York State, a family of four would no longer be eligible for services if its income exceeded $5,454. Harnessing eligibility for social services to the public assistance payment level has many obvious disadvantages. Not so obvious, is the problem resulting from the fact that p.a. levels in many States do not reflect the cost of living. A study conducted by the Community Council of Greater In New York found that the p.a. level for a family of four in New York is only 78 percent of minimum need.

Consider what this same formula will do as applied to States such as Tennessee where the yearly p.a. grant is $2,600 or Mississippi where it is $720, or Texas where it is $1,776 or California where it is $3,288, or Ohio, where it is $2,400.

In addition, the proposed regulations would not allow a family to have liquid assets any greater than those allowed for public assistance eligibility. Studies have shown that it would cost more to verify a family's few assets, than it would to allow them to have them. I also seriously question the invasion of privacy that such verification would entail.

The proposed regulations also lock working mothers into low-level jobs and virtually exclude families with two wage earners. In addition, they encourage abuses of the system and abet family breakup. It is not inconceivable that, in order to maintain eligibility, many families will make false claims or force the father's absence from the home.

I would also like to call your attention to a recent survey by the Census Bureau of 51 major urban areas. It found that more than 60 percent of all workers in low-income neighborhoods of the cities surveyed did not earn enough to maintain a decent standard of living and that 30 percent cannot even earn a poverty-level income. Can you imagine what it would mean to these poor working families if, in order to keep working, they had to pay for private child care, for the child's medical care, and for more food in the family budget—at today's prices!

This is especially true in the case of the Black family. Just look at the facts. The median income of the Black family is only $9,727, almost $3,000 less than the median income of white families. In two-percent Black families with a working mother, it is her income that makes the difference between survival and welfare. Statistics show that in 63 percent of Black families, wives do work, as compared to 48 percent in white families.

According to economist Andrew F. Brimmer, while the Black income reached an all-time high in 1972, the gap between Black median income and white continues to widen. The lack of growth in the Black labor force, especially hits youth and women, says Mr. Brimmer, and is attributable to "a legacy of racial discrimination and deprivation that has limited Blacks' ability to acquire marketable skills, while barring them from better-paying jobs."

Given this situation, the impact of the proposed regulations on our Black working mothers who are just beginning to move their families toward economic stability, will be to force them to give up their hard-won fragile independence and return to the dead-end street of the welfare rolls.

As far as program quality is concerned, the regulations would result in a reversion to the worst traditions in our history with regard to human services. All references to standards have been deleted and all salaries for those involved in monitoring and maintaining program quality have been disallowed. Staff development and training programs, which not only provide employees with the opportunity for economic advancement, but assure quality services to the children, would not be reimbursed.

And, most regrettable, the essential health and nutrition services we now provide to our children are not reimbursable either. This means that our most needy children will have to go without the essential food and health care they need for proper physical growth and emotional development.

In the short time permitted, it is impossible for me to detail each of the items in the proposed regulations to which we take exception. The Agency has prepared a detailed analysis which, with your permission Mr. Chairman, we would like to submit for the record.

If new regulations are needed, they should include language that allows the following:

> . . . the upwardly-mobile, two parent family to continue to receive subsidized day care at reasonable cost and to allow a working mother who is the sole breadwinner to increase her income without being locked out of the public day care system.
>
> . . . the concept of the disposable income so that eligibility is based on an accurate estimate of earnings and the cost of living.
>
> . . . the definitions of potential and former welfare recipients be broadened so that children do not suffer from a family's fluctuating fortunes.
>
> . . . the perception of day care as an essential family service that prevents breakdown and that is the preferred alternative to the disruptive and more expensive foster care and institutional placement programs.
>
> . . . recognition by the federal government that quality day care services must include the vital training, monitoring, nutrition and health components that are now a part of New York's program.

In closing then, I want to say that the proposed regulations, to my mind, clearly violate the intention of the Social Security Act and put the federal government in the position of abrogating its leadership role in providing child care services.

It was federal response to consumer need that made the growth of day care possible. It would be tragic if the government now turns its back on the very program it supported. I think I speak for the working parents of this country—poor, near-poor and middle-class when I say that we will not allow day care to become an institutionalized, baby-sitting adjunct to the welfare system.

AN ANALYSIS OF THE EFFECT OF THE PROPOSED FEDERAL REGULATIONS ON SOCIAL SERVICES PROGRAMS, SPECIFICALLY DAY CARE SERVICES

BACKGROUND

In 1967, Congress amended the Social Security Act to provide, under Title IV–A, Federal aid to the States for the reimbursement of 75 percent of the cost of day care services rendered to children of former, current, or potential welfare recipients. The remaining cost of day care services for these children was allocated to the States, with the option of local governmental units or private agencies to share part of this cost. The appropriation for Title IV–A was open-ended.

This recognition by the Federal government of its role in fostering the developmental needs of young children, particularly poor children, marked the beginning of a forward surge in providing day care services to New York City's children. Consider the fact that in 1966, we had 93 publicly-funded day care centers serving about 6,700 and that today, there are 400 centers serving about 30,000 children with another 6,200 children being cared for in Family Day Care homes—all financed, in the main—under Title IV–A.

More than 80 percent of the women using these services are employed, in job training or looking for work. The 1970 census bears out the need for expanding child care programs by figures reporting 5.5 million women in this country who are the heads of families. In New York City alone, the figure is 429,000. And these numbers are growing, not decreasing.

In setting the stage for the discussion which follows, we must also call attention to the role of the States in the funding picture. In order to receive reimbursement for all social services programs funded under the various Titles of the Social Security Act, States are required to submit plans for HEW approval. HEW's present administrative regulations, defining State participation in reimbursable programs, clearly set forth the Federal commitment to strengthen family life and to foster child development. If the proposed regulations are enacted, a new plan would have to be submitted. The new plan, in carrying out the intent of the new regulations, undoubtedly would have a major impact on our ability to continue services at the same level, let alone to expand them.

On February 16, 1973, the Department of Health, Education and Welfare published revised regulations covering social services reimbursed through Titles I, IV, X, XIV, and XVI of the Social Security Act. These regulations will be effective, as stated, thirty days from the date of publication; unless further revised or withdrawn by HEW.

The following analysis done by staff of the Agency for Child Development, summarizes the major changes, points up the policy issues, and predicts some of the social and fiscal effects that these regulations will have if enacted. Our analysis, naturally, has been directed to the effects of the proposed regulations on day care services funded through Title IV-A. Most of the observations, however, hold true for other social services programs funded under the Titles listed above.

First, a brief explanation of the purpose and legal effect of Federal regulations. Congress enacts a law, such as the Social Security Act, very broadly and leaves the Administrative detail to the relevant administering Agency. The Secretary of the Agency, in this case Health, Education and Welfare, has the power to publish regulations, in accord with the law and the intent of Congress. When enacted, these regulations have the same effect as the law itself.

The current regulations, in keeping with the intent of the Social Security Act that states in part "services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting or strengthening the family and other such services as will assist members of a family to attain or retain capability for maximum self-support and personal independence," mandates States to provide day care, foster care, family planning and other social services to strengthen the family unit and promote its well-being.

The administrative and program guidelines outlined in the current regulations are designed to enable and motivate States to provide quality services to a maximum number of people. From our analysis, it appears that the proposed regulations will inhibit rather than encourage States to continue to provide supportive social services to poor working families and will, in fact, signal the end of the Federal leadership in developing services to meet human needs.

Many services, including day care, that were previously mandated are now optional. This means that States can choose *not* to provide them. Moreover, they limit Federally-reimbursable services to the very poor—and to them, only until they get off public assistance or until their income reaches one-third more than they would receive on public assistance.

The following is a discussion of the major features of the proposed regulations and an analysis of their fiscal and social impact, if enacted. Also included, is a personalized case history of a typical family using publicly-funded day care services and the cost to the government if these services are withdrawn.

More important, however, than any specific issue raised by the regulations is the philosophy promulgated by the language and intent as described heretofore.

Availability of Day Care—Eligibility

A. SOCIAL ELIGIBILITY

Eligibility for services for children is no longer based on the needs of children

The proposed regulations permit day care only to meet the ***parent's*** need to work or to enter a training program; or because of the parent's illness, incapacity or absence from the home. Further, the only acceptable goals that may be included in the approved service plan, which would now be required ***prior*** to service are (1) self-support, and (2) self-sufficiency.

By comparison, the current regulations mandate that a service plan be designed to provide subsidized social services, including child care, for each "family *and child* who require service to maintain and strengthen family life, foster child development", as well as "to achieve permanent and *adequately-compensated* employment". They further mandate that these services "be responsive to the needs of each individual in the family."

One of the most important reasons for providing day care, totally ignored in the proposed regulations, is as a protective or preventive service. The Social Security Act, itself, defines Child Welfare Services that may be provided with Federal funds on a matching basis as services which:

1. "Supplement or substitute for parental care and supervision for the purpose of preventing or remedying or assisting in the neglect, abuse or exploitation or delinquency of children, or
2. "Protect and promote the welfare of children, including . . . the provision of adequate care in . . . day care or other child care facilities."

This language is repeated in the current regulations, which permit and encourage States to provide such services. It is *completely missing from the proposed regulations.*

The comprehensive child development program of educational, nutritional and medical services to children and social services to their families available in New York City has often prevented or remedied the conditions that result in neglected or abused children. In this way, day care in New York City has been an effective alternative to the heartbreak and excessive cost of foster care.

The cost of providing institutional foster care, at $25,000 a year per child, is eight or nine times more expensive than the cost of providing day care.

The tragic irony of the proposed regulations is that not even foster care itself can be provided as a preventive service for families receiving AFDC. It can only be provided as a protective service under certain conditions: "as a result of a judicial determination to the effect that continuation of care in the child's own home would be contrary to the welfare of such child", i.e. only as a means of responding to evidence of neglect or abuse. In other words, under the proposed regulations a child may not receive any services until his family has suffered the breakup that could have been prevented with the provision of child welfare services.

B. FINANCIAL ELIGIBILITY

Both the current and the proposed regulations limit eligibility to current, former and potential applicants or recipients of financial assistance. The definition of both the *former* and *potential* recipient is more restrictive in the proposed regulations than in the current ones.

The proposed regulations define *former welfare recipients* as those who have received public assistance within the previous three months. Current regulations permit the State to define this in the State plan. New York's State plan defines a former welfare recipient as one who has received public assistance within the past two years.

According to the current regulations, *potential welfare recipients* may be defined as "those who are likely, within five years, to become recipients of financial assistance." The proposed regulations limit this category to those likely to be on welfare within six months. Neither definition, however, has any real meaning until it is related to specific income criteria. Herein lies the essential difference between the current and proposed regulations.

The current regulations permit States to set income limits in their State Plans. This allows for State by State, individual definition as to what constitutes "need," with subsequent State by State approval from HEW.

The proposed regulations set a specific income definition which must be adhered to by the States, and is tied specifically to the public assistance level.

It can be argued that nowhere does the public assistance level begin to meet minimum income needed for a family to survive. The proposed regulations limit services to an individual whose income is no greater than 133⅓ percent of what he would receive on public assistance. In New York State, this income level will be $5,400 for a family of four, compared with a $7,500 income limit for Federal reimbursement under the present State plan. In addition, the proposed regulations require that a family not have liquid assets greater than those allowed for eligibility for public assistance.

The proposed regulations also preclude upward mobility for those who are employed. Because of the income limitations, they virtually exclude all families with two wage earners; they encourage abuses of the System and they abet family breakup. It is not inconceivable that, in order to maintain eligibility, many families will make false claims or force the father's absence from the home.

In addition, the current regulations permit *potential welfare recipients* to be defined as "a selected reasonable classification of families and children with common problems or common service needs." This "group eligibility" is not permissible under the proposed regulations. Although day care in New York State has always required determination of financial eligibility on an individual basis, this regulation does have a serious effect on other social services.

Program quality

The language of the proposed regulations makes it clear that program quality is no longer of concern to the Federal Government. Federal legislation currently mandates standards for day care services whereas the proposed regulations make no reference to quality programs. It is clear that HEW does not intend to reimburse local governments, such as New York City, to maintain a high quality program.

All references to standards and to monitoring programs for quality have been deleted. In addition, the Federal Government will no longer reimburse salaries of local Agency staff responsible for setting standards, monitoring and evaluating program quality, and providing technical assistance and consultation to day care centers to assist them in maintaining quality. Monitoring program quality is *required* by the current regulations. The only monitoring required—or even mentioned—in the proposed regulations is for cost.

Current regulations require staff development, education, and training *on a continuing basis* for all staff responsible for the development of services. This includes professional and para-professional staff and volunteers. The proposed regulations do not include training and staff development as a reimbursable item.

Other specific costs not reimbursable under the proposed regulations are health and nutrition services.

These restrictions make it almost impossible for localities to maintain high-quality, comprehensive child development programs.

Parent/consumer involvement

Under the proposed regulations, parents of children in day care services would no longer have any meaningful involvement in policy development and program administration. Consumer involvement is *mandatory* under the current regulations.

Current regulations mandate advisory committees at the State and local levels. One-third of the membership of these committees *must* consist of consumers of service. The committee is required to "have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the Agency."

The proposed regulations only mandate an advisory committee at the State level. Consumers of service are not even included in the suggested membership of the Committee. All language relating to the power and duties of the Advisory Committee has been deleted; the proposed regulations simply state that the Committee shall "advise the State Agency on the general policy involved in the provision of day care services."

The current regulations also require that Advisory Committees be provided "such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations," and "financial arrangements, where necessary, to make possible the participation of recipients in the work of the Committee structure."

The current Federal regulations recognize the importance of meaningful consumer involvement in policy making and in the provision of services. They acknowledge the right of people to have a voice in decisions which vitally affect their lives, as well as their responsibility to insure that Government agencies providing services remain responsive to the needs of the people they serve.

The Agency for Child Development has long recognized the importance of parent participation in child development programs. Parent participation helps to insure that child development services represent a real support to family life. It also enables parents to participate in and maintain the growth that their children experience in these programs. It avoids the Government "paternalism" and the view of day care as a threat to family life, about which the Nixon Administration has expressed concern on many occasions.

Expansion and enrichment of services

The proposed regulations set forth a number of restrictions that will severely limit expansion and quality of services.

For example, services can not be purchased from other public agencies for services now being funded through sources other than Title IV–A. In addition, privately donated funds can not be used as the State share to be matched by Federal IV–A funds.

Neither of these limitations immediately affect ACD-funded programs. They do, however, affect other services and other geographical areas, and can affect New York City's ability to expand and enrich services in the future. They also substantially reduce the motivation for voluntary participation in social service programs by privately funded agencies, by corporations, and by other individuals in the private sector.

The proposed regulations further require that all purchase-of-service agreements be written, and that the agreements be approved by the Regional Office of HEW. They also provide that reimbursement rates will be set by the States and monitored by HEW. These new requirements will not only be administratively cumbersome, but the participation of HEW in setting reimbursement rates may further limit the availability and the quality of services.

Administrative costs

The administrative procedures set forth in the proposed regulations will require a virtual "army of bureaucrats" to administer. According to HEW, these additional verification procedures are necessary to curb abuses and provide greater management control for the program. The new requirements, none of which exist in the current regulations, are:

1. Service plans are now required *prior to service*, and can only be issued for a period of six months. At the end of the six-month period, the service plan must be *re-authorized* before service can continue. This must be done by the "organizational unit responsible for development of individual service plans."

2. All applications must be *verified* by the local agency administering the service *prior to service*.

3. Applications for current recipients of financial assistance must be *verified* by "the Organizational unit responsible for determination of eligibility for financial assistance", i.e., the local social services department. This must also be done *prior to the provision of service*.

4. The *State* agency must also make a determination that each family and individual is eligible for service *prior to the provision of service*.

5. In addition to periodic reviews of income and welfare status performed by local agencies (current practice, although not specified in the current Federal Regulations), the *State* agency must make a redetermination of eligibility of each family and individual receiving services at the following intervals:

(A) *Quarterly* for current recipients of financial assistance. This redetermination may be accomplished by comparing public assistance rolls with service eligibility listings.

(B) Within *30 days* of the date that public assistance is terminated.

(C) For "potential" public assistance recipients, within *six months* of initial eligibility determination or subsequent redetermination.

(D) Within *three months of the effective date of this regulation* for families and children currently receiving service on the basis that they are former applicants for or recipients of financial assistance.

These procedures are not only cumbersome and expensive but they will seriously delay the admission of children to vitally needed services. This multi-level review of the application and verification is, in our opinion, totally unnecessary. It is important, of course, to monitor eligibility and to establish audit trails to uncover abuses. The State, at present, together with the localities, designs a monitoring and review procedure to insure responsible control over programs.

Under the current regulations HEW has authority to review these procedures, as well as to monitor and audit programs. This authority would seem sufficient to avoid and eliminate any abuses there might be in the use of Title IV-A funds.

A CASE STUDY OF THE IMPACT ON FAMILIES

To pinpoint the impact of the proposed regulations, let us consider the Jones family, made up of Chris, a widow whose husband died and left her with no resources or life insurance, and two children Jane, age 4 and Dick, age 8.

Inasmuch as Mrs. Jones is employable and eager to become self-reliant, she begins to look for adequate child care arrangements and for a job. Jane will need all day care and Dick, after-school care.

Mrs. Jone is promised a job paying $7,500 a year.

Mrs. Jones decides to place her children in a publicly-funded day care center because, on the basis of her investigation, the children will receive safe, reliable, developmental care. When she looked at unlicensed centers and homes she found hazardous conditions. The one licensed, private day care center in her neighborhood is open only from 9 a.m. to 4 p.m.; and charges $26 a week for the younger child. This arrangement would leave both children without care from 4 p.m. until 6 p.m. The publicly-funded day care center is open from 8 a.m. to 6 p.m., and only charges $3 a week for both children.

When Chris's children are admitted to the day care center, the Family Counselor informs her that she may be eligible for supplementary public assistance because under current regulations part of her income can be disregarded.[1]

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[1] *"Income disregard"* holds that a certain portion of a family's earnings, plus their employment expenses, can be deducted in determining their eligibility for public assistance. Thus, a person could be earning more than 133⅓ percent of the grant level and still be eligible for social services—including day care.

She could receive a semi-monthly supplement of $17.83 or $8.29 a week. However, Chris does not want to apply for welfare. First, she finds the whole idea of receiving welfare distasteful and alien to her nature. Second, she does not want to take the time to obtain such a small grant.

Chris is happy with her work situation and has peace of mind about the children because she knows they are safe and receiving educational training, good food, health services and the affection of caring adults. The children also look forward to going to the day care center every day.

However, one day the Family Counselor calls her in and informs her that there has been a change in eligibility for day care under new Federal Regulations. Much to her dismay, Chris learns that her children must leave the day care center because her income is too high for her continued eligibility for this service. She discusses this with the Family Counselor who advises her that if she applies for supplemental public assistance, she could continue to receive day care services. Although distasteful, Chris evaluates her options.

If Chris does not apply for public assistance, this is her budgetary situation:

Option I

Gross income	$7,500
Employment expenses:	
Transportation	168
Union dues	90
Child Care ($46 per week)[1]	2,392
Taxes	1,341
Total employment expenses	3,991
Rent	1,800
Annual disposable income	1,709

[1] The child care estimate is based on care in the private nursery school at $26 a week, with a neighborhood high-school girl looking after Jane and Dick between 4 and 6 p.m.

This budget allows Chris only $1,709 a year or $32.86 a week to pay for food, clothing, medical care and all other expenses.

Option II

If Chris does apply for public assistance, the employment expenses listed in Option I are covered, in addition to which she receives annually:

Supplemental assistance grant	$428
Medicaid (estimated cash value)	168
Food Stamps (estimated cash value)	168
Total	764

Most importantly, her children can stay in the day care center.

Reluctantly, Chris applies for supplemental public assistance as this is clearly the only way she and her family can survive.

Now that we have examined Chris's financial situation, let us see what the relative costs to the government are under Options I. and II.

Option I—Prior to receiving public assistance

Annual cost to Government: Day care for 2 children, 1 preschool, 1 afterschool	$4,500
Offset by Chris paying:	
Day care fees	150
Taxes	1,341
Annual net cost to Government	3,009

Option II—After receiving public assistance

Annual cost to Government:	
Grant cost	$428
Administrative cost	208
Medicaid	1, 863
Food stamps	168
Other costs	163
$2,407 per person (multiplied by 3)	7, 221
Total	7, 649
Offset by Chris's payment of taxes	1, 341
Total cost to Government	6, 308

It is clear that the net effect of the new regulations will be to cost the government twice as much to maintain Chris and her family.

Six months later, Chris's boss offers her a $1,000 annual increase. She is very pleased, but wonders what will happen to her welfare check and her day care services. She finds that, out of the additional $1,000 a year, she will have to pay:

1. Day-care costs	$2, 393
2. Medical expenses	616
3. Cash value of food stamps	504
Total	3, 512

In addition, she will lose the $428 a year in public assistance. Therefore, her $1,000 raise will cost her $3,940. With great reluctance, Chris declines her raise. The government, therefore, continues to pay the $7,649 outlined previously. If public policy had been arranged to provide incentives, including subsidized day care for Chris and she had accepted the raise, the $7,649 cost to the Government would be reduced to $3,009, in addition to which Chris would pay an additional $180 a year in taxes.

Social and financial impact

Our analysis of the proposed regulations indicates that they will (1) reduce the availability of services, (2) reduce the quality of services, (3) increase administrative costs, (4) increase the time span between application for and receipt of service and, (5) have little or no inhibiting effect on abuses.

We believe this can only add up to an increase in both the real as well as the personal cost of survival for those no longer eligible for publicly-subsidized social services. The taxpayers will ultimately pay both these costs. Our case study shows shows incontrovertibly that the proposed regulations encourage and reward dependency and discourage self-motivation and upward mobility. Why should a family risk leaving public assistance and its subsidized benefits for the uncertain future of self reliance?

To sustain those families who give up what little measure of economic stability they have gained and retreat to the welfare rolls, the taxpayers will pay almost twice as much as they would for the day care services that would keep the wage earner working. But in any case, it is the children who will pay the highest price for they will be victims not of benign neglect but of deliberate exclusion from a chance for life.

And for those families who continue to try to make it on their own, not only will they pay the price of doing without such basic needs as food, clothing, adequate shelter, medical care but, in the long run, everyone will pay.

For who can measure the damage done to a child whose family cannot give him adequate nourishment; who cannot put shoes on his feet or a coat on his back; who cannot buy him glasses or a hearing aid; who cannot read to him or play with him because there is no time or energy for such luxuries. What happens to the child who never leaves his mean surroundings; never meets children of other backgrounds; never knows the possibility of a better way of life.

We submit that there are already too many such children in this country today and that it will be to our everlasting shame and regret if we permit these inhumane regulations to create a whole new generation of society's outcasts.

Mrs. Mink. If we may request that you summarize your statement we would appreciate it, very much. You may make any other comments you wish.

Ms. McMurray. I do welcome the opportunity to speak before this select committee, and as you have indicated, my testimony will be placed in the record, as will the analysis.

I want to make a few comments in general about the proposed regulations in terms of their impact, as well as intent. I think, first of all, that we should recognize that one of the real purposes of the proposed regulations is to control the increased demand that is developing in this society for quality child care.

It is very evident to me that the real impact of these regulations, if enacted, will be to limit public subsidized child care to the poor, as has been stated by previous speakers, and we in New York City, and elsewhere in the urban areas of this country have seen that as the number of women with child care responsibilities going to work has increased; that there is a crying need for child care, safe child care; and that the Nixon administration in these regulations is attempting to put a lid on that demand.

Some of us believe strongly, that the real intent thereof, is not only to limit this demand but to work as a disincentive for women going to work, and work as a disincentive for wives working in low-income families, to supplement their husband's income. We have indicated in our testimony that, for black families in this country to the extent that we are moving to the middle income sectors, it is because wives work, as well as the husbands, and the wives' income, many times, makes the difference between families living in poverty, or being able to afford some of the minimum luxuries in life.

It is among these reasons—these regulations must be challenged, and challenged in totality. I think, also, we need to recognize that contrary to what Mr. Rutledge and his counterparts in HEW indicated, earlier, day care does afford the opportunity for parent involvement as much as Headstart.

I think it is a disservice to families to assume that because the mother is employed and because the father is employed; that they have no interest in the care of their children; and that regulations should be promulgated that eliminate parent involvement in the day care centers.

One of the reasons for the expansion of the day care in New York is because of the amount of working parents. We have had experience in maintaining advisory committees at the resource area of our agency, and we know that employed parents are able to make an impact on program decisions as much as Headstart parents do.

This leads to the third point, which I have, and that is that most of the discussion about the proposed regulations really ignore the needs of children. Our reading of the Social Security Act states that the act is designed to provide quality care for children.

That is one of the major reasons for its passage. Title IV–A states that services should be used to enhance family life and to foster child development. Indeed, the current 4–A regulations have done just that.

We have in our program, been able to provide these services, as well as training of staff to assure that children have a good environment.

It is to the disadvantage of our families to now assume that a reading of the act would indicate otherwise. It is also important, I believe, to try to get these regulations withdrawn or revised, to the point where they reflect the needs of the families and children and it becomes equally important to get a comprehensive child development bill before Congress to insure some of these arguments will become mute.

Thank you.

Mrs. MINK. Thank you very much, Ms. McMurray. I heartily endorse everything you said, and appreciate, very much, the analysis which you have provided [illegible] the committee, and I am sure that the members will take time [illegible] study this very carefully.

I would like to ask just one question, with respect to the new requirements of six months, and three months for eligibility review.

What do you think would be the cost of administering these new regulations?

Ms. McMURRAY. We tracked the system in our agency, and we estimate it will cost us $3 million in additional administrative costs in order to administer the regulations as now proposed, because we will have to hire more clerical and administrative personnel.

Mrs. MINK. Is this $3 million going to come out of the funds you receive from the Federal Government, and——

Ms. McMURRAY. That is a very interesting point. It would appear that the administrative costs in administering the new regulations will not be reimbursable.

One of the questions we would be posing would be if HEW is mandating this type of verification, or redetermination, is it prepared to assume part of the cost of it.

Mrs. MINK. What is their response to this?

Ms. McMURRAY. We have not gotten a response to that, yet.

Mrs. MINK. I wish I had thought of that question to ask Mr. Rutledge, because that is one of the nightmares that I see evidence in their proposed regulations.

In terms of numbers of children who are now participating in the program, can you give the committee some view as to how this would be affected under the new regulations? How the numbers would be reduced?

Ms. McMURRAY. At the present time, we have almost 40,000 children in our various programs in the city. About 34,000 in day care. We have determined about 50 percent at least of those children would be ineligible for Federal reimbursement.

There is another key point, however, which we need to recognize, and that is that the regulations as proposed also mandate that families cannot have liquid assets over those allowed for public assistance.

So, it may mean that even though we may have more children eligible, if their families have bank accounts, or cars, or insurance policies which exceed the public assistance level, they cannot get federally reimbursable day care.

This is an issue that has not received enough public attention.

Mrs. MINK. Thank you very much, we appreciate your testimony.

I would like to call Mr. Greg Coler, executive director, Greater Minneapolis Day Care Association; accompanied by Ms. Alvo, if they are still here.

Again, my apologies to both of you for detaining you.

STATEMENT OF GREG COLER, EXECUTIVE DIRECTOR, GREATER MINNEAPOLIS DAY CARE ASSOCIATION, ACCOMPANIED BY MS. STELLAR ALVO, DIRECTOR, MI CULTURA CHILD CARE CENTER, MINNEAPOLIS, MINN.

Mrs. MINK. I believe we have your statement which we will also enter in the record at this point.

TESTIMONY OF GREGORY L. COLER, PRESIDENT, MINNESOTA CHILDREN'S LOBBY

Mr. Chairman, Members, my name is Gregory L. Coler and I am here today on behalf of the Greater Minneapolis Day Care Association and the Minnesota Children's Lobby, of which I am president. Accompanying me here today is Ms. Stella Alvo, of the Mi Cultura day care center in St. Paul, Minnesota, and the Coalition for Comprehensive Child Care of the Twin Cities.

Mr. Chairman, I would like to make a brief statement, followed by a brief statement by Ms. Alvo. After our brief statements, we would be pleased to respond to any questions the Members may have.

Mr. Chairman, the proposed HEW Social Services regulations represent a tragic development in the history of this Nation's ability to help people become self-sufficient and to hold their families together. I believe that it is particularly tragic that these proposed regulations have been issued by Mr. Nixon's new HEW Secretary, Mr. Weinberger, when such regulations are a vicious attack by the Administration on the principle of a 'work ethic' that we have all heard so much about of late.

Mr. Weinberger must realize the effect of these proposed regulations; they have nearly destroyed the fragile supports we have erected to help people become self-sufficient.

I am certain that the Members have been provided with the data developed by the American Public Welfare Association which shows the impact of these proposed regulations, in terms of people affected and money lost. Let me review just one aspect of the human and financial damage being done—the impact on day care services.

Nationally, 206,704 people will be affected by losing day care services in the last quarter (April–June) of Fiscal Year 1973. In Fiscal Year 1974, 449,325 people will be deprived of day care services. We have already estimated the impact on our largest county, Hennepin, where Minneapolis is located. In Hennepin county 418 families will be ineligible under the proposed regulations. If only half of those return to the welfare rolls, the bill will be $925,892 per year.

Let me now turn to Ms. Alvo for a look at the impact in our capitol city, St. Paul, and Ramsey county.

MS. ALVO

Nationally, it is estimated that these new regulations will result in over $416 million dollars being lost to the States for day care services alone during Fiscal Year 1974. In Ramsey County (which includes St. Paul, the State capitol), $1,274,000 will be lost.

No one should be misled about the immediate results of this lost money and these lost services. These new regulations, if approved, would not lead to most women stopping working or to less day care *as such*. Most women are so anxious to avoid the welfare rolls and to keep their heads above water, that they will try to "muddle through." Most women have no real choice other than working, but now they will go to work worrying about the kind of care their children receive and where their children are. There will be *some* kind of day care, if you call damaging day care "some kind," but it will be the kind of day care that is provided in crowded, dangerous basements and in mind-destroying institutional settings, not the kind of quality day care that is now being provided in centers like Mi Cultura under the current HEW regulations.

Worst of all, all these so-called economies are not really saving any money. Children will suffer and parents will suffer—but taxpayers will suffer as well. It costs a great deal more money to pay for welfare than to help families keep their jobs or to work their way to self-sufficiency. Welfare is three times as expensive as providing day care.

MR. COLER

Mr. Chairman, Members, there is a solution to the problem caused by the proposed regulations. The best solution is to withdraw the proposed regulations and re-issue regulations which help people, not harm them. There is also a very good reason for re-issuing the regulations. The papers report that Sec. Weinberger has said that he intends to change the regulations as they affect the use of private funds for matching purposes, and the Congress and the nation should have an opportunity to see Mr. Weinberger's second draft and to comment on them. That second draft should be published in the *Federal Register*, and 60 days for comment should be provided.

There is precedent for another alternative too, Mr. Chairman. Time for commenting on the proposed regulations can be extended and, if they are not withdrawn by Sec. Weinberger, this is the least that should be done. According to our information, all it took was a letter from one Senator to Sec. Richardson to get the period extended for comment on proposed regulations relating to welfare benefits for strikers. More than one Senator has expressed concern and more than one Member of the House has expressed disagreement with *this* set of regulations.

If the Administration will allow more time for comment on regulations which would potentially deprive strikers of welfare benefits, if the Administration will allow additional comment by those who, in the words of the AFL-CIO, "organize campaigns designed to starve them [workers]—and their children—into submission," why not more time in *this* case?

There is precedent for withdrawing regulations or extending the time for comment. All it takes is the will of the HEW Secretary. Now's a good time to see whether he acts like a 'knife' or a 'human being'.

Mr. Chairman, I thank you for allowing us to testify. We would be pleased to answer any questions you have.

MINNESOTA DAY CARE PEOPLE HIT DRAFT REGULATIONS, CALL ON HEW SECRETARY WEINBERGER TO WITHDRAW CURRENT VERSION

Mr. Gregory Coler, President of the Minnesota Children's Lobby and Executive Director of the Greater Minneapolis Day Care Association, and Ms. Stellar Alvo, of Mi Cultura (a bi-lingual St. Paul day care center testified before the Select Subcommittee on Education today, and called the new HEW Social Services Regulations which have been proposed "a vicious attack by the Administration on the principle of a 'work ethic.' " Coler, leading off testimony for the Minnesota people before Rep. John Brademas' Subcommittee, said that "we have heard so much about the worth of the 'work ethic' that we were surprised when Mr. Nixon's new HEW Secretary nearly destroyed the fragile supports we have erected to help people in our area become self-sufficient."

Ms. Alvo said that "the new Regulations, if approved, would not lead to most women stopping working or to less day care as such. Most women have no real choice other than working, but now they will go to work worrying about the kind of care their children receive and where their children are. There will still be some kind of day care," Ms. Alvo continued, "but it will be the kind of day care that is provided in crowded, dangerous basements and in mind destroying institutional settings, not the kind of quality day care that is now being provided in centers like Mi Cultura under the current HEW regulations."

Coler outlined the impact of the new Regulations nationally and in Hennepin County, where Minneapolis, the State's largest city, is located. Coler projected that nationally, the new Regulations would "deprive 449,325 people of needed day care services. In Hennepin County," Coler said, "418 families will be ineligible under the proposed Regulations. If only half of those return to the welfare rolls, the bill will be $925,892 per year."

Alvo, talking about the dollar impact, said: "Nationally, it is estimated that these new Regulations will be result in over $416 million dollars being lost to the States for day care services alone during Fiscal Year 1974. In Ramsey County (which includes St. Paul, the State capital), $1,274,000 will be lost. Worst of all," Alvo said, "all these so-called economies are not really saving any money. Children will suffer and parents will suffer—but taxpayers will suffer as well. It costs a great deal more money to pay for welfare than to help families keep their jobs or to work their way to self-sufficiency."

Coler and Alvo joined in asking Rep. Brademas and the Congress to press HEW Sec. Weinberger to withdraw the proposed regulations and re-issue regulations which help people, not harm them.

"There is precedent for withdrawing regulations," Coler said. "All it takes is the will of the HEW Secretary. Now's a good time to see whether he acts like a 'knife' or a 'human being.' "

Mrs. MINK. If you would care to summarize——

Mr. COLER. If you have read it, maybe you would like to proceed to some questions. If that would be your pleasure?

Mrs. MINK. If you would like to comment on any aspect of the hearing today, and responses of Mr. Rutledge, you are free to do so at this time, if you wish.

Mr. COLER. We did have a chance to speak with Mr. Rutledge in the hall, and I was very interested in his comments about the numbers of middle-class people who apparently were receiving care under the regulations and so I asked him if he could tell me what he considered to be this income level that was so concerned about, and that I would be very interested in seeing their data, which supported that particular statement.

I was a little shocked at some of the generalities that we were presented with—at least as I heard it, I would be hopeful, may be,that this subcommittee would be able to press the administration for that information.

Mrs. MINK. Well, during the questioning of Mr. Rutledge, we did request that he provide us data because in a meeting with him, the other day, this was also one of the major abuses which he cited but he was not able, at that time, to provide us with any specific examples.

So, we are also very much interested in this one criticism that they raised.

Mrs. MINK. I might just ask you, as director of your program, and knowledgeable in the services which are being tendered to children in the State of Minnesota, whether such abuse does exist in your program and what middle-class families are now receiving Federal reimbursement under this program?

Ms. ALVO. May I interrupt before Mr. Coler answers; I would ask the committee that in the record, when Mr. Rutledge introduces his statistics that there be comparative statistics with people who have done that analysis, I think, from the American Welfare Association.

Mr. COLER. Yes.

Ms. ALVO. Because some of the statistics Mr. Rutledge bandied about today—I am not going to say were false, but I would say the statistics we have just don't compare.

I think that what we are playing is a money game and we are playing statistical battles and I think that is the crux of a lot of information on which decisions are made.

I am concerned that if that information be introduced that it be analyzed in comparison to statistics done by people who have a different orientation.

Mrs. MINK. You make a very important point, and we certainly will refer this matter to counsel and request that such comparative analyses be made.

Mr. COLER. That is what surprised me, so much. They did not—at least, as I heard it—I was amazed that they did not bring any of their own numbers to compare. They just made a statement, and no support was offered.

I was talking with folks from New York, and we were saying it makes a lot of difference. Those of us in the business of organizing communities, getting 4-A contracts through with counties, and States, have to justify our programs to the *n*th degree.

We have to justify down to the most minute, line item. For my organization, we spent some 100 hours of staff time justifying one position. Then, we come to the Capitol and hear the administrator of the entire program present statements that we are to do that at the local level.

We could not, and our programs would never come into existence. I was really thoroughly amazed at that. It just embarrassed me to see that.

I guess, not unless you have dealt with justifying day care programs at the local level—you just would not believe it.

Mrs. MINK. Do any of the programs in Minnesota have this block eligibility?

Mr. COLER. Yes; in Hennepin County, yes, we have a block eligibility in model cities and in Pilot City. However, in model cities, each and very one of those single-parent families, female and male, are in work or training. The same in Pilot City. The irony of it is that we wish to have a sliding scale at Minnesota when we started and were told by the regional SRS office that we would not be allowed a sliding scale.

Our parents wanted to pay. That would have taken care of those few out of 1,100 people using title 4-A in Hennepin County, maybe 3 or 4 of these who would be way out of the income range. But 90 percent of our patients are at work or in training in our programs.

Most of them make under the $7,000 net figure which is our State plan figure. It is just like—an example, they took that comment at page 564 of the Senate finance report. They start talking about it like it is congressional intent. That report was never voted on.

Senator Mondale wrote a letter to the Secretary regarding that point and we hear it again today, that it was Senate intent. It has been defined, I think, by our Senator, that it was not—and by others, too. The last point I would make that we have in our testimony, is that it is very amazing to us that one request from a Senator could extend the amount of hearings that were held on the regulations regarding subsidies or welfare payments to strikers. Yet, we have had 50 Senators and 80 Congressmen request that these hearings be extended and from what I heard today, it doesn't sound like that is going to be the case.

Mr. ALVO. I would like to add that one of the points that Mr. Rutledge made is that what he is trying to do is break the welfare cycle and I think there are many studies to prove and attest, in fact, to the fact that people on welfare don't come from a generation on welfare. The kinds of income bracket that these regulations will affect are the people who are in the income bracket of $5,300 to $7,000 which is middle hardcore working class, people who need that support.

We have statistics in Ramsey County where we have 1,604 children, 528 of those will be dropped. We will lose in Ramsey County close to $4 million. We have a projected cut of present funding for child care of $4 million. We are presently funded for child care at $2 million.

We will be cut to $800,000 just in child care. The greatest portion of moneys being cut are coming from the child care line specifically.

Another point that is very, very much bandied about is revenue sharing will take over a supplement those lost moneys.

Well, you know, I think that every State can attest to the fact that revenue sharing will not cover any of the lost social services. In our State, those revenue funds are spent and have been allocated. With everyone's interest in not raising taxes and keeping things at a minimum, revenue sharing is not the answer and is not the panacea that it has been slated to be. I think those issues have to be waged as well.

Mr. **Coler.** One of the things we find hard to understand is how the administration talks about the work ethic and they talk about reducing costs. In Hennepin County, we will have 418 families who will be made ineligible. If only half of those people were to return to welfare, the bill for the welfare is going to be $925,000 a year. Three times the cost of our entire child care program. I am sure those statistics were mentioned in other testimony that was presented today. It just seems hard for us to understand how the administration can talk about the great desire to have people become self-sufficient and cut the very bootstraps, child care, which allows many families to do that.

Mrs. **Mink.** I assume that both of you have submitted your objections to the Department?

Mr. **Coler.** Yes.

Ms. **Alvo.** Right.

Mrs. **Mink.** I have no further questions. I would like to say that we certainly welcome your participation here today and appreciate very much your coming to provide us with the facts and expertise about the programs that you have. We are very much indebted to you. Thank you, Mr. Coler and Ms. Alvo.

Now we have Mr. Verville, our last witness.

STATEMENT OF RICHARD VERVILLE, ATTORNEY, REPRESENTING HEALTH AND WELFARE ORGANIZATIONS

Mrs. **Mink.** I apologize to you, too, for detaining you to this late hour. I appreciate your staying. We have your testimony.

Mr. **Verville,** Yes, you do, Madame Chairman.

Mrs. **Mink.** Which will be put in the record at this point.

Testimony of Richard E. Verville

IMPACT OF SOCIAL SERVICE REGULATIONS ON CHILD CARE

Mr. Chairman, I am honored to appear before this distinguished Subcommittee with which I have enjoyed working over the past two years while at HEW. This Subcommittee has been noted for its deep concern with the problems of vulnerable individuals, the aged, disabled, and children, and this hearing is another example of such noteworthy activity. I also find this hearing of particular importance because it is an oversight hearing. In my view, based on three and one-half years in the Federal Government, there is a great need for Congress to invest time and resources in overseeing the implimentation of Congressional policies as set forth in law; that is reviewing regulations, guidelines and practices of the executive branch. Such oversight hearings, together with requirements of publication and notice in the Administrative Procedure Act, assure the procedural openess necessary to make government more accessible and responsibe to the citizens of this country.

My testimony will be brief and will focus on clearly defining the various effects of the proposed social service regulations on day care programs. In general, these effects fall into the following categories:

(1) Effects on the kinds and quality of day care programs that can be Federally supported;

(2) Effects on who can receive services;
(3) Effects on program administration; and
(4) Effects on program financing.

Kind and quality of services

Under the proposed regulations, day care services for children are eligible for Federal support as they were previously. However, under the proposed regulations child care is no longer a mandated service which each state must provide, but only one of a number of optional services, which the state may provide. Under the proposed regulations, child care is to be limited only to employment goals. This seems to be different from the present situation where child care is provided in other cases than employment situations. The State and Local Fiscal Assistance Act of 1972 in defining child care services authorized the provision of services where there was death, incapacity, or continued absence from home of the child's mother. In addition, services such as health, nutrition and education have been so narrowly defined in the proposed regulations that it is clear the only care to be provided children is to be custodial. The only health services that could be financed are those involved in informing individuals of health programs available to them, and referring them to those programs. The same definition applies to education services. With respect to nutrition, only the preparation and delivery of meals can be supported. In each of these cases, the position of HEW is that other programs could finance these services. In my view, this may be the case; but in many areas of the country, other programs may not be available and this program should provide financing for services in those situations.

Another problem with respect to the kind of day care which can be financed under the proposed regulations, involves the quality standards for day care. Under the existing regulations, day care must be "suitable" and the Federal Interagency Day Care Standards would apply to out-of-home day care. Under the proposed regulations, there are no Federal standards established. Federal standards are probably required by the Economic Opportunity Act, and in addition, Federal standards are presently applied to nursing homes for the elderly and proposed for intermediate care facilities for the elderly and for mentally retarded children and adults. There seems to be no reason for this distinction in Federal role.

Finally, without common Federal standards for day care under all Federally-supported programs, there is bound to be a situation in which children and families in similar circumstances will receive different quality care.

Eligibility

Under the present program, there is no income limitation in the definition of potential welfare recipients. (The law provides for services to former, potential and current recipients). Under the proposed regulations, potential receipents cannot earn more than 133⅓% of the actual welfare payment level. This eligibility limitation reduces the class of individuals eligible for day care enormously. Even if such individuals are willing to pay, they cannot receive services under the program. The result is an arbitrary notch somewhat unrelated to one's potential for becoming a recipient.

The proposed regulations also prohibit group eligibility and require each individual to be tested for his eligibility. Under the current regulations, neighborhoods can be designated as poverty neighborhoods and all residing in them are eligible without an individual eligibility test. An individual test is costly and demeaning.

Administration

The proposed regulations require only a grievance system for recipients. Under the law, Section 402 of the Social Security Act, a fair hearing is specifically required. The regulations require a hearing and appeals process.

The proposed regulations require only a state level day care advisory committee with no required participation by recipients, whereas the present regulations require state and local committees and recipient participation.

Financial structure of programs

The proposed regulations prevent private donations from serving as the non-Federal 25% share of the program. Thus, the United Way cannot provide money to support the state's 25%. Under the proposed regulations, such a private donation is prohibited. This prohibition has the effect of reducing private sector involvement and reducing Federal funds for the total social service program by $100 million.

In addition, besides prohibiting Federal supplanting of state funds are requiring state maintenance of effort, the regulations require that the state 25% share be a new appropriation to draw 75% Federal funding. It is very difficult to define whether money is really new money. It is also unique to prevent a state from using an existing investment, not previously Federally-matched, as its share to draw 75% Federal funds. Non-supplanting makes sense as does requiring a state to maintain its effort in programs. Both concepts are sensible as part of a fair partnership arrangement. The "new money" concept, however, seems to go too far.

Conclusion

In the aggregate, based on conservative HEW estimates, child care funding will be reduced by close to 50% because of the new regulations. Estimated 1974 expenditures were $726 million without the regulations. A conservative estimate for FY 1974 with the regulations is about $380 million. The changes are significant qualitatively, as well, as I have tried to outline above. They affect who is eligible, the quality of the child care, and the procedures of administration significantly.

Mrs. MINK. You can proceed as you wish.

Mr. VERVILLE. I thought I might touch on the highlights. The best way to go about it is to have you interrupt me at any time and ask me questions instead of waiting until the end. What I would like to do is get more specific than I think most people have here who have testified, perhaps other than Mr. Rutledge, and deal with things in the regulation that I don't think have been discussed in great detail.

First of all, I think that the regulations basically have a great impact in four areas: One, they have an impact in terms of quality of services generally; two, who can receive them; three, the administrative structure; and four, the financing of those services.

All four of those categories apply to day care, child care as well as to the other services. Specifically, with respect to the child care, in the quality area first of all, the regulations now do not mandate child care. The existing regulations do. Child care is one of the seven mandated services.

There was some discussion here today to the effect that the law requires that the administration change its regulations to narrow the mandates to three. My understanding of the law as amended by last year's general revenue sharing bill, is that there is no such mandate. As a matter of fact, I think the only thing last year's amendments did was put a ceiling on the program, and also to provide that with respect to certain classes of services, all defined services, you could provide those services only to—only 10 percent of the money could go to former and potential, the rest had to go to current recipients. That was the only substantive thing from last year.

There was a colloquy on the floor between Mr. Mills, involving the changes and basically, the answer was no, there was no change through these amendments in the kinds of services that can be financed. Yet, there are a number of changes in the regulations, one of which is eliminating child care as a mandated service.

Second—and this is very important from your point of view, Congresswoman Mink, because you have raised the whole issue of child development versus custodial day care—my reading of the regulations is that the way the services can be reimbursed federally, are defined in the proposed regulations and is such the education, health, and nutrition services to anyone—but in the case, day care to children—are not federally reimbursable.

Mrs. MINK. How do you arrive at that conclusion?

Mr. VERVILLE. I arrive at that conclusion because in the definition section, there is a definition in 221.9. Definition 3 is for day-care services. There is really no reference in that definition to what that means, what day-care services are. But in the other parts of that section, there is a definition of education and it says this means helping individuals to secure educational training most appropriate to their capacities from available community resources at no cost to the agency. What that means to me is that basically this is an informational referral service. That same definition is used for health services.

It is basically informational and referral. You can't finance a hard health service. Nutrition, all you can finance, is the preparation and delivery of the meals, not the cost of the meals.

Even if those services are part 6–E, as Mr. Rutledge said—a comprehensive program. He said they were rethinking it but I think that—they probably are—but I think great attention should be paid to that because their position, I think, is not—their theory for doing this is not tenable, I don't think. If you look closely at those programs, you find with respect to medicaid for example, one State in the country doesn't have a program, half of the States roughly—I may be wrong—have a promise but it is only for the welfare recipients, it doesn't include potentials or formers.

Third, in the medicaid law and regulations, there are only five kinds of services mandated basically. Many State plans don't provide certain types of services. It seems to me that the social service regulations at a minimum ought to provide in the areas of health, education, nutrition, that that money could finance those services where other programs did not have available support for one reason or another.

I think in many cases, you find there is not available support. So, the theory is to substantiate. VR has never been noted for dealing with poor people. Many people will say it has never been intended to. That probably is the history of it. That is the same with the community mental health centers. They have not been poverty oriented. Therefore, you don't find many poor people being served by them.

They have been served by this program in the last couple years. With respect to quality again, there is a major program, I think, on standards. The existing regulations do have the Federal interagency standards referred to specifically. These regulations do not. The Economic Opportunity Act, as I understand it, required by law that there be Federal interagency standards.

I don't think there is a question but what there have to be. Then, the question is what will they be? I think the committee should follow that question very thoroughly and I think this oversight hearing is in my estimation, a fine idea and I think the committee should have more of them because I think that is an important area, to follow implementation as well as creation of law. There is another thing that is eliminated from the present regulations in terms of standards.

There is reference, as you know, in the present regulations to day care being suitable. If only one source of day care is available in the community, it still has to be suitable to the recipient of that service. He is not ever required to receive unsuitable day care even if there is only one alternative. The focus of the present regulation is one developing of a variety of alternatives but if only one is available, then it doesn't have to be received unless it is suitable. There is no reference at all to a standard of suitability in these regulations.

That needs to be looked at, I think. Those are my major points on quality.

On who can receive the services, the major issue is obviously the notch issue. The fact basically that potential has been defined to mean someone about 133 percent of the income level as the family income. The problems of that have been alluded to probably emough. I would hope that that would be changed. One point, I think not raised, is the fact that the law makes former and potential recipients eligible. The law as amended last session, did require that for certain services, you could spend only 10 percent on potential and former. But for child care, there was no limitation. I think it is implicit in there that the Congress intended that child care be available to former, current, and potentials and in my view that means the way they were defined at the time the Congress enacted it. I am not sure you could make a case so good you would want to take it to court, but I think redefinition of potential after the last session of Congress, does involve some straying from what I believe to be Congress' intent. Straying in the sense that I think the 133⅓ is a much narrower definition that the Congress probably intended. I think it is also a problem because what you are trying to define is a concept that is potential, who is likely to go on welfare.

Well, it seems to me that to use only an income standard, 133⅓ is somewhat arbitrary. You can have someone earning $1 over 133⅓ and yet can have problems like health or alcoholism, being a good example. Or there could be a labor market in his area not good for him at the time.

Another person in a neighboring community making $1 less than 133⅓ with normal health and normal labor market for his skills, results in a situation where his family is more likely to be on welfare within 6 months. So, my view would be that the regulations ought to be changed somewhat to allow for other factors in addition to the 133⅓ percent of welfare payment to determine what potential means.

The only other eligibility question is the one that has not been hit on directly enough and that—although it was referred to in terms of low income housing projects and model neighborhoods—but that is that under current regulations, you can identify an area within a city and have all individuals within the area eligible for services. It is called group eligibility. The current regulations don't allow for that. I think the major problem is one of administration, really, in many senses, although, it is also somewhat demeaning to an individual to have to be tested. I honestly think group eligibility can be abused but I think eliminating it entirely probably throws the baby out with the bath water.

It is a very costly thing to determine everyone individually. I am not sure it is necessary if the criteria for selecting the group or area are appropriate to the intent of the law, that is a poor area.

Mrs. MINK. Do you make reference to a low-cost housing project?

Mr. VERVILLE. I think that's pretty clear in that area.

Mrs. MINK. That group designation would not be permitted under the new law.

Mr. VERVILLE. Right.

You would have to test each individually. There was some testimony about the low-income housing individuals residing there would not be eligible under specific tests particularly specific tests related to these proposed regulations.

As to the administration of the program, I think there is an important thing that has not been mentioned at all, and I am not sure what was intended—that is why the record, I think, should be clarified.

Under the current regulations, as a matter of fact, under social security act, fair hearings are required for individuals who are recipients of services or assistance. Under the regulations there is also the right of appeal from adverse decisions. It's a fairly specific due process kind of regulation now in effect.

The proposed regulations talk simply about the establishment of a grievance system and don't have any specific reference to hearings or appeals. I think it's important to clarify just what a grievance system is, because I think that is a very important type of thing to be provided, and I think its an important Federal role to assure that due process is given to recipients.

It's certainly a growing concern of the courts in this country.

The only other thing I have with respect to administration is that the present regulations do require both State and local advisory committees on day care and they refer to recipient participation. These proposed regulations talk about only State level advisory, and don't talk about recipients at all.

On the financial aspects, there is the problem obviously of the donated funds. That has been covered, I gather, pretty well. That change will be made, I understand. That point has received a great deal of press and I don't think that it's anywhere near as important as other more substantive, in my view, and more quantitative in terms of the dollar impacts effects of these regulations.

The last thing I would like to mention is part of the financial changes in the regulations. It's something that is very complicated, and nobody has talked about it at all. That is that the proposed regulations require that in order to get your 75-percent Federal share, your 25-percent non-Federal share must be what is colloquially referred to as new money.

One, I am not sure what that means and how you will define what it means. It sounds like they are saying you have to have a new appropriation.

Clearly, what it does mean is that the State cannot look to existing investment in social services—whether or not federally matched now—and use that to bring in 75-percent Federal money.

This is different from either a provision preventing Federal funds from supplanting State aid or maintenance of effort provisions. Both of those, I think, make sense.

I don't think there is any evidence to substantiate the "new money" requirement imposed.

Mrs. MINK. Could you expand on that?

What is the difference between "new money" and "supplanted money"?

Mr. VERVILLE. "Supplanting" means the 75-percent Federal share, cannot be used to refine programs now funded with State money allowing State money to be taken out of the State budget or put into something else, like highway construction, which has been a notable example.

The 75-percent Federal was put into an account in the State for services to mentally retarded children, what happened was the State would take its money from the mentally retarded institutions and put it into account, another account, or reduce its State effort entirely in that respect—not allowing would permit the Government to do that, it would mean the State would have to use the Federal funds and not replace any State effort.

The State would have to maintain its effort and use the Federal money above that. New money is really saying you have got to have new appropriations in the State every time, and I am not sure what the definition of "new money" really will ever be; but it sounds like its saying somehow, we, the Federal Government, have to determine that this State money put up is something that is above the level of State effort previously.

I am not really sure how that will work.

Mrs. MINK. We have in current regulations the maintenance of effort requirement; do we not?

Mr. VERVILLE. In this program there has not been a maintenance of effort requirement, nor has there been a nonsupplanting requirement.

Mrs. MINK. These are both new requirements?

Mr. VERVILLE. Yes. And I think there is a question as to what the statute's basis is for these requirements in the regulations.

I don't pretend to be an expert in the social security area at all; I do find it difficult to find in the Social Security Act titles represented to these service programs or any reference to maintenance of effort or kind of authority with which to promulgate a new money requirement.

That is all I have to offer now.

Mrs. MINK. With your expertise in this area, would it be possible for the State to take revenue sharing money which it has received and use that for matching purposes for child care services?

Mr. VERVILLE. My recollection of the General Revenue Sharing Act is that it prohibits use of general revenue sharing funds as matching for other Federal programs. I am almost positive of that.

So you can't do that. You couldn't use general revenue sharing as your 25 percent.

The only program I know in the Federal Government where you can use the Federal money to match other Federal money is the model cities program. There has to be a specific statutory authority in any Federal program to allow you to do that.

The general rule is you can't match Federal money with Federal money.

Mrs. MINK. Thank you very much for coming. We have certainly benefited a great deal from your analysis based upou your experience in the Department. This has been most helpful.

Mr. VERVILLE. Before I forget it, I would think it would behoove the committee to request from the association of—American Public Welfare Association, the statistics that they have gathered from all the State welfare agencies with regard to the cost effects of these regulations on the States, and the effects on individuals as to how many people will not be served in the future.

My understanding is that the implications financially that the regulations will cause are in the neighborhood of $1 billion. That would be $1 billion less Federal participation because of the regulations.

Given a program of $1.4 or $1.5, which is equal to the 1972 level of funding; this would——

Mrs. Mink. This is overall social services?

Mr. Verville. Yes; with respect to child care. The estimates prior to these regulations being proposed were that $726 million would be provided for child care under the Social Security Act in fiscal year 1974 and the estimate is based on the assumption that these regulations would become effective are that roughly $400 million or $380 million will be spent.

So you have a reduction of at least $300 million. I think that my information if coming from various sources, some of which is from the APWA.

Mrs. Mink. I assure you that we will make that request of the American Public Welfare Association, so we will have that information available for the use of this committee.

Thank you very much.

Mr. Verville. It's been a pleasure.

Mrs. Mink. The subcommittee's oversight hearings are in adjournment.

[Whereupon, at 5:40 p.m., Thursday, March 15, 1973, the hearings were adjourned.]

[The following material was submitted for the record:]

STATEMENT OF NATIONAL COUNCIL OF JEWISH WOMEN

SURVEY OF THE IMPACT OF THE PROPOSED SOCIAL SERVICE REGULATIONS

The National Council of Jewish Women, with a membership of over 100,000 in local units all over the United States has had a concern for the welfare of children since its inception eighty years ago. At our last Biennial Convention, held at the end of March 1971, the delegates resolved:

"To work for the expansion and development of quality comprehensive child care programs, available to all children, and to work for adequate financing."

Our nationwide survey of day care facilities, published last year in a report entitled *Windows on Day Care*, clearly indicated that working mothers reported far greater dissatisfaction with care of children in their own homes and in day care homes than in day care centers because the children received custodial care only.

Consequently, the publication of proposed Regulations for Social Services for Families and Children, and for the Aged, Blind and Disabled in the Federal Register on Feburary 16, 1973 has caused expressions of grave concern from our local Sections across the country. In each State the report has been the same. Initially it was almost impossible to determine how the regulations would affect total programs. Neither the states nor the federal agencies have any statistics as to how many marginal income families—the working poor—would be eliminated by regulations which would eliminate private funds as the source of local and state matching share for federal participation, change eligibility for 75% federal financial participation, change day care from a mandatory to an optional service, and eliminate requirements that parents have a choice of the type of service, that it be suited to the child and that states develop alternate sources of day care.

As our members have investigated how these proposed regulations would affect services to their own communities, their expressions of concern have turned into consternation. Some specific examples demonstrate.

Eliminating private funds as the source of local and state matching share for federal participation

In *St. Louis, Missouri* the United Fund is the source of all matching state and local funds for the city's network of day care centers. All centers would have to close.

Massachusetts would lose $12 million in social services authorized for fiscal year 1974 ($3 million of donated funds from private sources) particularly services to families requiring day care or homemaker services. This includes purchase of day care services for several thousand children. In addition, 4,434 welfare recipients are enrolled in 63 camps for two week periods, with donated funds of $138,435 generating $543,440 in camp services in 1972, tripling the total number of campers aided over 1971 from 2,810 in 1971 to 9,671 in 1972.

In *Pennsylvania* day care centers would be severely affected. Eighty percent of centers have the local and state share provided from private funds.

Major programs in the *Cleveland, Ohio* area would be wiped out or greatly reduced by such a regulation including day care centers and homes provided by the Center for Human Services, the Greater Cleveland Neighborhood Centers Association, as well as some children served by the Jewish Day Nursery Association, the Catholic Diocese, Community United and the West Side Ecumenical Ministry. The exact numbers affected by changes in Title IV–A regulations cannot be determined on such short notice because the children served by these agencies are from a wide socio-economic mix. In addition, almost 6,000 inner-city children were provided camperships last summer with private funds as the local and state share.

In *Dutchess County, New York,* during January 1973, the County Department of Social Services purchased day care center services for 106 children, 83 of them in the day care center sponsored by the Model Cities program in Poughkeepsie, which provides the 25% local and state share considered private funds.

Change in eligibility for 75% federal financial participation

The most drastic changes would be produced by the limitations in eligibility of past and potential recipients.

In *Michigan* at least a thousand working mothers face loss of day care assistance if these cuts go into effect. A family of four with an income over $3,850 per year would no longer be eligible for services. This will be a special hardship to those families who have been able to keep off AFDC because of day care assistance. Some will have to quit their jobs and return to welfare. In Wayne County (*Detroit*) over two thousand children now receiving day care assistance will lose it. Especially hard hit will be low income families struggling to maintain their independence and families whose children are in day care centers for "health and social reasons," a category which has been eliminated.

The National Council of Jewish Women helped to start the Mount Pleasant Day Care Center in *Cleveland, Ohio.* The elimination of group eligibility and the limitation to those families whose income is less than 133⅓% of state assistance standards would eliminate most of the families and children served by this center. Women earning over $267 per month for a family of four would not be eligible in Ohio. Certainly at this income level they cannot afford private day care. Many of the families of the thirty children being served would find that the mother would have to give up her job to stay home and some would have to go on welfare. Many other centers in Cleveland are in the same bind.

In *New York* State more than half the families now receiving some form of social service aid are not on the welfare rolls and most would no longer be eligible for services. Thousands of working mothers whose jobs are dependent on availability of reliable day care for their children would have to quit their jobs and go on welfare. As many as half of New York City's 34,000 working mothers using day care centers would be eliminated, many of whom pay fees ranging from $2 to $25 per week.

One agency in *Birmingham, Alabama* reports that it will have to cease day care services for 40% of its recipients, most of whom are working mothers who are the sole support of their families.

Elimination of the regulation permitting each state to set its own financial and resource standards for recipients

This will have a drastic effect on provision of day care services in the highly urbanized states such as *California, New York, New Jersey* and *Connecticut.* The regulation which went into effect on January 1, 1973 requiring *New York City* to conform to the state standards, reducing the eligibility for free service to a family of four from a net income of $8,500 to $7,500 alone will cause a loss to New York City of approximately $15 million in state and federal matching funds for day care services for working mothers, most of whom are the sole support of their families. Reduction to $4,000 gross income would be catastrophic not only in the city but in the rest of the state where day care services are provided primarily for the working mother. In a survey of ten counties outside New York City with 58% of the population, 7,092 "public assistance" children were shown to be in day care financed by the Department of Social Services, plus 1,900 marginal income children, as defined by current regulations. A large majority of these children would no longer be eligible for services.

Changing day care from a mandatory to an optional service

Great concern has been expressed everywhere to the long range effect of changing day care from a mandatory to an optional service, especially with the ceiling on social services passed by the Congress as part of the State and Local Fiscal Assistance Act. Two specific examples can be cited.

New York State's Commissioner of the Department of Social Services, Abe Lavine, predicted on February 28 at a legislative hearing that when the federal government takes over the responsibility for administration of the program providing financial assistance to the aged, blind and disabled next January, the number of recipients may double because they will see it "as an income maintenance program akin to Social Security," rather than a welfare program. Each of these additional 300,000 would be entitled to at least one mandated service to the aged, blind or handicapped adults. This additional load, coupled with the federal ceiling on social services may leave no funds for optional services such as child care.

In *Massachusetts* family planning services have never been fully implemented. Setting up this program, now mandated, may be such a financial drain on the limited funds available under the ceiling that there will be no funds for optional services such as day care.

Elimination of parental participation in choice of service to meet the needs of the individual child, with states required to develop alternate services

Many women will not go to work if they are unhappy with the type of care their child will receive. This forced use of a service on a "take it or leave it" basis could seriously infring on the individual's rights and responsibilities.

There are other changes proposed in the regulations that are of major concern to our women—elimination of federal standards for child care which have been directly responsible for upgrading day care all across the country, a job by no means done; and the requirement of judicial determination for placement in foster care to qualify for federal financial participation, which would overload the courts and give every foster child an unnecessary court record and reverse the successful efforts of recent years to upgrade the family. Experience has shown that previous wide-scale placement of children in foster care has not been the solution to the problem.

Finally, we are also concerned about the segregation of children of the lowest income levels of our communities which we foresee and the eventual result of these proposed regulations. Children learn much more quickly from each other and a day care center program with children of differing socio-economic levels is as highly advantageous and desirable to the child from non-verbal homes as it is to the advantaged child as well.

The National Council of Jewish Women urges that day care services be removed entirely from the province of "public assistance" and the social service ceiling and be placed more appropriately as part of income maintenance programs.

PROTEST TO PROPOSED REGULATIONS ON DAY CARE

The Louisville Section of the National Council of Jewish Women hereby protests as arbitrary and inconsistent, the proposed regulations amending Chapter II, Title 45 of the Code of Federal Regulations, published in the Federal Register on February 16, 1973, and dealing with day care funding.

In particular we protest the following changes made by the proposed regulations:

1. Prohibiting all private sources for the state's matching 25% share;
2. Removal of group eligibility standards for service; and
3. Limiting definition of eligible potential AFDC recipients.

FACTS

The California Day Care Center is located in the California area of Louisville, a federally designated poverty area. It is funded under Title IV–A of the Social Security Act with the 25% matching local funds provided by The Louisville Section of The National Council of Jewish Women. Since its opening in 1970, it has served 199 children of working parents. Of the 49 children (36 families) presently served, 13 families (18 children) are currently on AFDC, but 3 families, who were on welfare before the day care center opened no longer need assistance since the parent can work. Moreover, if the low cost day care provided by the Center were no longer available, 14 families would probably and 10 possibly go back on welfare. Consequently the service presently provided by California Day Care Center keeps a possible total of 24 families off welfare.

The gross income of the families served by the Center ranges from $1,416 to $9,700. Yet even though the Day Care Center is eligible for the 75% federal participation due to its service in a poverty area, tuition is charged for each child according to his family's ability to pay, with charges ranging from zero to $10 a week. Tuition paid averages $4 a child or $208 a year per child. The per capita yearly cost of providing day care at the center is $1,214 for which the federal government pays only the amount not funded by tuition and contributions by the Louisville Section of the Council of Jewish Women. Consequently only $630 per child is contributed by federal funding. Thus due to the tuition charged, the federal contribution is less than 52%!

DISCUSSION

1. Prohibiting private sources for State's matching 25-percent share

Sec. 221.62 of the proposed regulations arbitrarily provides that, "donated private funds or in-kind contributions may not be considered as the State's share in claiming Federal reimbursement". This provision would result in the closing of the California Day Care Center since there are no state or city funds available to fund this service. Such a result is completely at variance with the ostensive purpose of the proposed regulations to provide "self support and self sufficiency for AFDC recipients". (See HEW Fact Sheet on Proposed New Social Service Regulations, Feb. 16, 1973, p. 3) Throwing 24 out of 36 families back on welfare is hardly a way to achieve and maintain the feasible level of employment and economic self sufficiency. (See Proposed Regulations, Sec. 221.8)

The HEW press release states that the purpose of the new rules is to "eliminate abuse in use of Federal matching funds and refinancing of existing State programs". There has been no showing of abuse in the donation of private sources to fund day care centers, and the centers funded privately in Kentucky are presently supervised by the Kentucky Department of Economic Security.

2. Removal of group eligibility standards for service

Sec. 221.7 removes group eligibility standards for service and requires that eligibility be determined individually. This imposes an unnecessary administrative burden on the states. If it is felt the group eligibility standards have been fiscally abused, the new regulations would better ameliorate the problem by requiring tuition based on ability to pay.

3. Limiting definition of eligible potential AFDC recipients

Sec. 221.6 of the Proposed Regulations limit eligibility for day care services to current and potential recipients of financial assistance. Potential recipients are defined as those whose income does not exceed 133⅓% of the State's financial assistance level. The explanation for this limitation, according to the HEW Fact Sheet, is to "concentrate the use of Federal matching funds for social services mainly in behalf of current welfare recipients since funds no longer are available to the States on an 'open ended' basis". While this explanation might have relevance to other services, it makes absolutely no sense as applied to day care since the ostensive purpose of day care is to allow parents to work so they may no longer remain on welfare. Consequently limiting service to recipients on welfare or with income no more than 133⅓% of the welfare standard is *reductio ad absurdum.* A requirement that would make more sense would be to define potential welfare recipients as those who would be forced on welfare if the day care service were not provided. Moreover as noted previously, a requirement of tuition according to ability to pay would preclude fiscal abuse.

4. The proposed regulations are unauthorized by statute, or legislative history

(*a*) Under Section 301 of the *State and Local Fiscal Assistance Act of 1972,* it is clear that federal matching funds for child care need not be limited to persons receiving welfare. That section amends Title XI of the Social Security Act to provide that at least 90% of federal matching funds for social services be expended for individuals receiving welfare assistance *except* in the case, inter alia, of child care services. The Conference Committee report clearly states that the 90% limitation does not apply to child care services. See S. Rept. No. 92-1229, 92d Cong., 2d Sessions, 10 U.S. Cong. News 5577 (1972). It is clear from the legislative history that "child care . . . services could be provided to persons formerly on welfare or likely to become dependent on welfare as well as present recipients of welfare". *Ibid.* There is nothing in the statute nor the legislative history authorizing the Secretary of HEW to define persons likely to become dependent on welfare as those whose income does not exceed 133⅓% of the state's financial assistance level. The statute is silent on the definition of potential welfare recipients. As noted previously, a requirement limiting eligibility to persons who would be forced back on welfare without day care service would be a much more logical way to define "persons likely to become dependent on welfare".

(*b*) Nor does the legislative history support the removal of group eligibility standards of service. Originally the bill reported by the Senate Finance Committee provided for the continuance of 75% federal matching funds for child care services on an open ended basis. See S. Rept. 92-1050, 92d Cong., 2d Sess., 10 U.S. Cong. News 5558 (1972) It was only in the context of this open ended authorization that the following comment in the Senate Finance Committee Report is relevant:

"Although the bill does not limit the type of child care which the State can make available or purchase for such children, it does not authorize the States to simply establish or underwrite massive child care or pre-kindergarten programs in low-income neighborhoods (as some States have done under interpretation of existing law) and claim 75 percent Federal matching." Ibid.

The Conference Committee, however, changed the open ended authorization of the Senate bill to include child care services in each state's share of the $2,500,000,000 overall limitation on spending for social services. In view of the funding limitation as finally enacted, the Senate Finance Committee's fear of the fiscal consequences of group eligibility under an open ended authorization appears inapplicable. Thus no reference at all to group eligibility is found in the Conference Committee Report, which merely provides:

"Under the substitute, Federal matching for social services under programs of aid to the aged, blind, and disabled and aid to families with dependent children would be subject to a State-by-State dollar limitation, effective beginning with fiscal year 1973. Each State would be limited to its share of $2,500,000,000 based on its proportion of population in the United States. Child care, family planning, services provided to a mentally retarded individual, services related to the treatment of drug addicts and alcoholics, and services provided a child in foster care could be provided to persons formerly on welfare or likely to become dependent on welfare as well as present recipients of welfare." S. Rept. No. 1229, 92d Cong., 2d Sess., 10 U.S. Cong. News 5578 (1972).

(*c*) The prohibition of private sources for State matching money is also unauthorized either by legislation or legislative history.

The Senate Finance Committee Report, in discussing the pyramiding nature of Federal funding for social services under the mandated open ended provisions of former law, contains the following statement:

"Under present administrative guidelines—or perhaps more correctly lack of guidelines—States have succeeded in financing almost any government activity under this provision. The distribution of social services today seems based more on a State's aggressiveness and administrative ingenuity than the needs of its recipients of assistance. For example, one State financed a half million dollar TV documentary with social services money. In another State, social service funds have gone into the State highway department, while in still another State, funds are going for advice on personal grooming to potential parolees from the State prisons. State welfare departments, which are supposed to exercise control over these expenditures, are becoming little more than fiscal conduits. Some States have even gone so far as to formally appropriate private funds—like UGF, and so forth—so they will qualify for Federal matching money." S. Rept. No. 92-1050, 92d Cong., 2d Sess., 10 U.S. Cong. News 5557 (1972)

But this comment only has relevance in the context of the Senate Finance Committee's decision to continue open ended funding of child care services. The action of the Conference Committee in placing child care under the $2,500,000,000 umbrella also obviates the relevancy of this Senate Finance Committee reference. Moreover, the abuses discussed in the Senate Finance Committee Report, such as utilizing social service funds for highway construction is a far cry from providing day care services so that poor people may earn a living. Finally, in the case of the California Day Care Center, the lack of financial irresponsibility is clearly shown by the tuition charges which have reduced the federal matching funds far below 75%.

We respectfully request that a hearing be granted before the regulations are finalized.

Very truly yours,

Mrs. David Neustadt,
President, Louisville Section,
National Council of Jewish Women, Inc.

Daughters of Charity,
Saint Joseph's Provincial House,
Emmitsburg, Md., March 22, 1973.

Mr. James Harvey,
Legislative Assistant, Select Education Committee,
Rayburn House Office Building, Washington, D.C.

Dear Mr. Harvey: Thank you very much for your many kindnesses yesterday when, despite the obvious pressure under which you were laboring at the time of our visit, you accorded Sister Mary Magdalen, Administrator of Seton Center, Emmitsburg, and myself some of your valuable time and very helpful information.

Enclosed are copies of the material emanating from the public meeting held at Seton Center on Monday, March 19, protesting proposed new HEW regulations which would curtail day-care services in our area. I hope you will find it possible to include this material in your printed report of the Select Committee.

If we can be of any further assistance, please believe we stand ready.

Thanks again for your courtesies and assistance.

Sincerely in Our Lord,

Sister Celestine, *legal consultant.*

The new regulations and proposed changes published by HEW—Social and Rehabilitation Service, February 16, 1973, allow thirty days for comment by the public before being promulgated, changed, or withdrawn for further study. Essential changes which seriously affect nearly half of the children in publicly supported day cares in Maryland include:

CURRENT REGULATIONS, ESTABLISHED JUNE 6, 1969	PROPOSED REGULATIONS, FEBRUARY 16, 1973
Allow for potentially eligible for AFDC to receive day care services.	Eligibility limited almost exclusively to current recipients of welfare assistance or current applicants for welfare.
Potentially Eligibility for AFDC include past recipients of financial assistance, as well as future applicants for or recipients of AFDC.	Changes Definition of Potential Eligibility for AFDC, on which determination of eligibility for day care services in based:
Past Recipients—A *two year* span is now allowed.	Past Recipients are applicants for, or recipients of, financial assistance within the previous *three months.*
Potential—Allow day care services to be made available to a family which may be deemed potentially to need public assistance within five (5) years.	Potential—Day care limited to Potential Recipient who might apply for or receive public assistance within *six* month period.
Provide free day care for those below the poverty level, ($3600 for 2 dependents) and subsidize day care on a sliding scale, with parents paying more as their income rises.	To qualify for day care services, a family's income cannot exceed Maryland's financial assistance level, (which is set at 60% of the minimum needed for subsistence) by more than ⅓. For a family with 2 dependents, that figure would be $2100. *Under the new regulations there is no sliding scale.*
"In kind" resourses (i.e. church facilities) or private funds donated to states, could be used in claiming 3 federal dollars for every 1 local dollar.	Eliminates use of "in kind" and/or private funds to match federal dollars.
Federal Inter-Agency Requirements provide programs which promote intellectual, social, emotional and physical growth of each child, and foster optimal development.	Day care would be defined as "services provided to meet the needs of a child for personal care, protection and supervision." (i.e. babysitting)
Staff child ratios require: 1 adult to 5 three to four year olds; 1 adult to 7 four to six year olds.	New requirements, 1 "caregiver" for every 7 children ages 3 to 4. 1 "caregiver" for every *10* children 4 to 6½ years.
Day care is a mandatory service.	Day care would be an optional service (only mandatory services would be family planning, foster care and protective services for children.)

[From Frederick Post, Mar. 20, 1973]

EMMITSBURG TO PETITION NIXON ON CENTER CLOSING

(By Alice Boyle)

EMMITSBURG.—Mayor Richard M. Sprankle concerned with the possibility of the closure of Seton Center conducted a meeting of parents and interested persons at the day care center Monday evening.

According to Sprankle, "the meeting was called to determine what measures should be taken. Government officials at state and federal levels were invited but unable to attend due to shortness of time and the pressure of other duties."

"Our United States Senators and Congressmen from this district have assured us that this matter is of vital importance to them and we will have their support in whatever action we have here tonight," Sprankle said.

Mrs. Geneva Barthel, director of Social Services of Federick County, was introduced and proceeded to give those gathered, numbering over 200, the overall view of the problem.

Sister Mary Magdalen, director of Seton Center, explained how the closing of Seton Center could effect the area.

Others giving comments included Mr. Donald Date, of the Community Action Agency, Frederick County, Mrs. Mary Kelly, president of the Maryland Day Care Association, Mr. George Shafer, administrative assistant to senator Thomas.

Mr. Shafer stated that Sen. Thomas was trying to get a postponement on the deadline. He advised everyone to write to HEW stating a need for the center.

County Commissioner Donald Lewis was also present.

Following the talks, by those having knowledge of the county, and its social problems comments and questions were heard from many in the audience. All were in agreement that a telegram should be sent to the President of the United States.

The telegram to be sent stated: Emmitsburg citizens protest proposed HEW regulations denying purchase of day care to other than welfare recipients. Self-respecting families in which mothers are required to work or where illness of either parent prevent adequate home care, resent the implication that they must become a public burden in order to qualify for day care programs," signed Richard M. Sprankle, Mayor of Emmitsburg.

Night letters will be sent to Casper Weinberger, secretary of HEW; Mrs. Patricia Nixon, Mrs. Mamie Eisenhower, Sen. Charles Mathias, Sen. Glenn Beall. Gov. Marvin Mandel, Lt. Gov. Blair Lee, Cong. Goodloe Byron and David Mason, secretary of Md. Social Services. These letters will state the opposition to HEW's new regulation regarding day care programs.

Those present were encouraged to write to state legislators.

EXCERPT FROM THE MINUTES OF A PUBLIC MEETING OF THE TOWN AND COUNTY COMMISSIONERS (EMMITSBURG AND FREDERICK COUNTY, MD.) HELD AT SETON CENTER, EMMITSBURG, MD., MARCH 19, 1973

When formal presentations had been completed, the session was thrown open by Mayor Richard M. Sprankle for open discussion from the floor.

After many statements evidencing the concern of those in attendance, it was moved by Harry Otterson, a local resident and parent, and unanimously adopted by vigorous applause that all our State representatives, United States Senators, Congressmen, the President of the United States, Secretary of Health, Education, and Welfare, and all involved officials be informed by telegrams, night letters, telephone calls or personal visits of our protest against the impending regulations restricting the purchase of day-care, and demanding that they be rescinded.

[Names of signees appear in the subcommittee files.]

[Telegram]

MARCH 19, 1973.

His Excellency RICHARD M. NIXON,
President of the United States,
White House, Washington, D.C.

Emmitsburg Maryland citizens protest proposed HEW regulations denying purchase of day-care to other than welfare recipients. Self-respecting families in which mothers are required to work, or where illness of either parent prevents adequate home care, resent the implication that they must become public burdens in order to qualify for day-care programs.

Richard W. Sprankle, *Mayor*,
For the town commissioners and residents of Emmitsburg.

American Public Welfare Association, Chicago, Ill.

RESOLUTION ON SOCIAL SERVICES

Whereas, over a decade ago Congress recognized the need for a vigorous program of social services in combating the multiple problems of poverty, drug addiction, alcoholism, mental illness, child development, child abuse, population growth, broken families, and lack of economic opportunity, and

Whereas, as recently as October 1972 Congress reaffirmed its belief in the necessity of these programs and expressed its intent not to reduce their prior expenditure levels, and

Whereas, the Department of Health, Education and Welfare, in implementing these programs, has always encouraged maximum flexibility for allocation of social services funds by state and local officials closest to the recipients, in the manner determined by such officials to be most efficacious, and

Whereas, in implementing the social services program the Department has previously advanced the principles of the New Federalism, which aims to enhance the authority and responsibility of state and local governments and to reduce the concentration of power and responsibility in Washington, and

Whereas, the social services program, as implemented by the Department's regulations, has contributed significantly toward the goals of limiting the numbers of recipients on the welfare rolls and contributing to the betterment of the lives of countless Americans, and

Whereas, the Department's recently proposed amendments to the social services regulations are, in many respects, squarely contrary to its established interpretation of the authorizing statute; are in other respects violative of specific statutory provisions and of expressed Congressional intent; and are in important respects arbitrary, capricious and antithetical to the principles of the New Federalism and of sound administrative policy: Now, therefore, be it

Resolved, That the National Council of State Public Welfare Administrators of the American Public Welfare Association is unalterably opposed to the draft social services regulations, as circulated within the last several days, since they would discourage the contribution of private funds for social services programs, drastically reduce the coverage of existing programs, significantly cut back on the scope of available services, unfairly discriminate between states, virtually eliminate the option of purchasing needed services, and impose upon the states burdensome and unnecessary documentation and record-keeping procedures which threaten to hamstring the program; and be it further

Resolved, That the Council urges that the Secretary of Health, Education, and Welfare withdraw the proposed regulations forthwith and that any future regulations in this area be designed to implement rather than thwart the purposes of the Act, the concepts of the New Federalism, and sound principles of administration decision-making.

Unanimously adopted, February 16, 1973.

American Public Welfare Association, Chicago, Illinois

Washington, D.C., March 13.—A cutback of more than $1 billion in Federal matching funds available to states for social service programs will result in fiscal year 1974 from proposed regulations of the Department of Health, Education and welfare, scheduled to become effective April 1, 1973.

The cutback estimate, measured against the $2.5 billion ceiling for Social Services imposed by the Federal Revenue Sharing Act of 1972, was made by the National Council of State Welfare Administrators of the American Public Welfare Association.

The Council stressed the $1 billion loss in Federal matching funds in FY 1974 would deprive more than 3.8 million people of Social Services, with the hardest hit being those benefiting from aid provided for day care, mental retardation and senior citizens' programs.

Across the Nation, the Council survey shows that more than 196,000 children will be deprived of day care services in FY 1974, thus compelling thousands of parents to go back on welfare rolls and over 176,000 mentally retarded persons will lose out on services essential to their well-being and improvement.

"By reducing Federal matching funds for Social Services to a level which will not be greater than $1.4—1.5 billion annually, the DHEW is taking a giant step backwards from the $1.7 billion in Federal expenditures for these purposes in FY 1972," Wilbur J. Schmidt, Council Chairman and Secretary of the Wisconsin State Department of Health and Social Services, pointed out.

Commenting on the proposed regulations, Guy Justis, APWA Director, charged the National Administration "is riding a wave of anti-welfare sentiment, and transforming nationwide confusion over welfare goals and objectives into a punitive, restrictive, regressive set of regulations.

"We are going to have to struggle to hold on to the programs we have and, in so doing, let the public know where we stand. The ultimate victims will be our clients, the people we cannot reach, the families we cannot help because of arbitrary Federal policy."

The pattern of reducting Federal Financial Participation is illustrated by noting how two states, representing different sections of the country, will be affected.

For instance, Georgia spent $32,415,041 in Federal matching Social Services funds in Fiscal 1972 and had anticipated spending $57,524,260 this year. The actual 1974 expenditure is expected to be $38,524,260, however, a $19 million reduction.

Iowa received $9,536,046 last fiscal year and had anticipated spending $13,500,000 in Federal matching this year. Iowa will only have $10,393,676 available according to the 1974 projection, however, for a loss of $3,106,676 in anticipated Federal revenue.

"The survey data was carefully compiled," Schmidt said, "and we think the estimates of adverse impact which the proposed Federal regulations will have on state social services programs are conservative.

"Questionnaires on the impact of the proposed regulations were mailed to Social Service Directors in 50 states, of which 33 responded partially or in full. Although the 33 reporting states represent only 65 per cent of the total, these states use about 73 per cent of Federal money expended for Social Services and represent about 73 per cent of the population served by these programs.

"We are convinced, therefore, that projection of questionnaire data to the national basis of all 50 states and the District of Columbia, provides as sound and accurate estimates as could be achieved. Special effort was made to avoid duplications in counts of people and dollars in coordinating the data."

The questionnaire was an outgrowth of a Council Resolution expressing "unalterable opposition to," and asking for withdrawal of the proposed regulations "since they would discourage the contribution of private funds for social services programs, drastically reduce the coverage of existing programs, significantly cut back on the scope of available services, virtually eliminate the option of purchasing needed services and impose on states burdensome and unnecessary administrative procedures."

The American Public Welfare Association is the national membership organization, representing 1800 state and local welfare agencies and 6500 of their staff personnel. The Association functions as its membership "voice" on public welfare matters before government officials, Congressional Committees, national organizations and international groups.

Joint Statement on Social Service Regulations by the National Council of Local Public Welfare Administrators of the American Public Welfare Association and the National Association of County Welfare Directors—an Affiliate of the National Association of Counties

On February 16, 1973, the Department of Health, Education, and Welfare published in the Federal Register new regulations governing social service programs for families and children and for aged, blind, or disabled individuals: Titles I, IV (Parts A and B), X, XIV, and XVI of the Social Security Act. It is apparent that the net effect of the new regulations will be to cut costs rather than to improve the system of serving the needs of people.

While there are numerous changes in the regulations that will cause undue hardships to many of the people served by the social service programs, this statement focuses only on several of the major issues raised in the proposed regulations, and makes the following alternative recommendations:

1. Provision: Donated private funds or in-kind contributions may not be considered as part of the State's share in claiming Federal reimbursement.

Recommendation: Use of private funds should not be prohibited as an alternative to state and local public appropriations. Matching of donated private funds should be used to fund an increased service capability, not to replace local funding initiative and not merely to substitute federal dollars for local dollars.

2. Provision: Social services are restricted to potential welfare recipients for six months and to former recipients for three months.

Recommendation: "Former" recipients as well as "potential" recipients should be included in the term "potential" and the definition of "potential," including all aspects of eligibility, should be left to the states with review and approval of that definition by the HEW regional offices. Consumers should continue to receive service as long as the retention of independence is conditioned on continuation of service(s).

3. Provision: Quarterly redetermination of eligibility for services must be made for each family and individual receiving financial assistance.

Recommendation: One year redetermination of eligibility for services should be retained.

4. Provision: The regulations specify three mandated family services: (1) family planning, (2) foster care services for children, and (3) protective services for children. The regulations list optional services which federal matching money may be used for both family and adult services.

Recommendation: There is no solid evidence to indicate that these services are any more effective than any other services in achieving appropriate specified objects. Further, there seems to be little rationale for the listed optional services being any more beneficial than other services. The local welfare directors recommend a simple listing of services which is responsive to state and local identified service needs. The listing should also provide for inclusion of any other services considered appropriate by state and local authorities, subject to review and approval of the HEW regional offices.

This statement addresses itself only to the most critical issues raised by the proposed social service regulations. During the time allowed for comment (until March 19, 1973) individual local directors throughout the country will be submitting to HEW additional detailed comments on the effect of these regulations in their individual counties and cities.

FEBRUARY 19, 1973.

CONTACTS

Benjamin O. Hendrick, Senior Staff Associate, American Public Welfare Association, Washington, D.C.

Mrs. Dorothy Sortor Stimpson, Legislative Assistant, National Association of Counties, Washington, D.C.

AMERICAN PUBLIC WELFARE ASSOCIATION, CHICAGO, ILL.

MARCH 13, 1973.

MEMORANDUM W-4

To: Administrators of State and selected local public welfare agencies.
From. Harold Hagen, Washington representative.
Subject: Questionnaire on impact of proposed social services regulations.

We are pleased to transmit to you herewith the results of the survey undertaken by the National Council of State Welfare Administrators on the estimated impact of the proposed social services regulations. You will recall that on February 16 Council Chairman Wilbur J. Schmidt requested the states to complete a questionnaire on that subject.

The processing of the returns proved to be more complicated and time-consuming than had been anticipated. However, the job has now been done, and before being released, the results were reviewed today by a group representing the Council. Distribution is also being made to Congressmen and Senators, to federal agencies and to the press.

The compiling and collating of the returns was done by the APWA Social Services Redesign Project under the direction of Jack Hiland.

TOTAL IMPACT OF PEOPLE DEPRIVED OF SERVICES AND FEDERAL DOLLARS UNAVAILABLE TO STATES AS A DIRECT RESULT OF THE HEW PROPOSED REGULATIONS ON SOCIAL SERVICES

1973 FISCAL YEAR—4TH QUARTER (APRIL-JUNE)

	IVA and IVB		OAA		Blind and disabled		Total	
	People	Dollars	People	Dollars	People	Dollars	People	Dollars
33 States	447,418	$46,951,252	140,687	$4,172,733	156,919	$20,221,939	1,092,250	$197,934,630
All States (projected)	612,901	64,179,797	192,722	5,716,073	214,958	27,701,286	1,496,232	271,141,959

1974 FISCAL YEAR (ANNUAL)

	IVA and IVB		OAA		Blind and disabled		Total	
	People	Dollars	People	Dollars	People	Dollars	People	Dollars
33 States	1,068,025	230,108,103	416,567	35,361,572	425,741	111,603,603	2,798,038	774,119,705
All States (projected)	1,449,349	315,216,579	570,640	48,303,523	583,207	152,881,648	3,832,929	1,060,437,951

TOTAL IMPACT OF PROVISION NO. 1 DEFINITION OF POTENTIAL RECIPIENT

Number of States reporting	Services under present regulations July 1972-March 1973		Deprived of services April 1973-June 1973		Deprived of services 1974	
	People	Dollars	People	Dollars	People	Dollar
33	7,056,949	$665,443,277	721,363	$107,093,781	$2,282,228	$482,770,791
All States (projected)	9,667,053	911,565,133	988,168	146,705,173	3,126,339	661,329,851

TOTAL IMPACT OF PROVISION NO. 2A DEFINITION OF SERVICES

33	1,519,727	694,689,468	505,474	125,086,664	1,258,376	501,382,341
All States (projected)	2,081,817	951,081,326	692,430	171,351,443	1,573,750	686,825,125

TOTAL IMPACT OF PROVISION NO. 2B RESTRICTION OF OPTIONAL SERVICES

33	1,343,819	638,310,856	1,956,959	81,973,020	732,373	274,187,771
All States (projected)	1,840,834	860,727,377	2,680,765	112,291,808	1,003,251	375,599,686

TOTAL IMPACT OF PROVISION NO. 3 USE OF PRIVATE FUNDS AS THE NON-FEDERAL SHARE

33	871,449	357,211,788	1,789,586	30,559,904	1,071,579	130,788,811
All States (projected)	1,056,779	475,632,573	2,437,789	40,479,320	1,467,916	179,162,755

WASHINGTON RESEARCH PROJECT,
Washington, D.C., March 9, 1973.

To: Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, *Washington, D.C.*

Subject: Proposed regulations for service programs for families and children and for aged, blind, or disabled individuals: Titles I, IV (pts. A and B), X, XIV, and XVI of the Social Security Act.

The following are comments on and objections to the proposed amendments to 45 CFR Parts 220, 221, 222, and 226 published under a notice of proposed rule making in the Federal Register on Feburary 16, 1973 (Volume 38, Number 32).

The Washington Research Project is a non-profit, public interest organization concerned with federal programs and policies affecting the poor and minority groups, especially children. Our comments on the proposed regulations are focused particularly on their effects in eliminating services to large numbers of poor and near poor families and in reducing the quality of those services which would continue to be provided on a much more limited basis.

I. GENERAL COMMENTS

The principal effect and apparent intent of the proposed regulations is to limit expenditures for social services far below the amounts intended to be spent by Congress. The history of the social services amendments contained in the 1972 revenue sharing act makes unmistakeably clear that Congress rejected any sweeping cutbacks in the existing social services program, such as those originally proposed by the Senate. Instead, it agreed to preserve the current program, within the confines of a state allocation formula, and with a targeting on certain clearly specified services. Indeed, in response to specific questions on the floor of the House of Representatives as to the effect of the ceiling on current programs, Chairman Wilbur Mills stated that "we have not changed the definition of social services that are available for those who are recipients of or applicants for welfare," and that Congress intended no restriction on the nature of social services.

The $2.5 billion ceiling was carefully chosen and supported by the Congress, over a lower amount approved by the Senate, because it would not disrupt most of the valuable services currently being provided. Although imposition of the ceiling might require some reordering of expenditures, the states have ample authority and flexibility under existing regulations to make the needed adjustments. This $2.5 billion ceiling plainly was more than an authorization in the traditional sense. The language of the statute says that "the Secretary shall allot" to each state its share of the social services funds. The regulations proposed by the Department therefore go far beyond the Congressional mandate and have the effect of impounding funds which Congress intended should be spent. Preliminary estimates by the states indicate that they will receive $1 to $1.3 billion less under the proposed social services program than they were entitled to receive under Congress' revenue sharing allocations.

Thus, contrary to the suggestion of the Secretary that the proposed regulations represent "the elimination of requirements which are not based on legislative mandates," the Department has clearly exceeded the intent of Congress and the language of the law. Other explanations of the Department are equally misleading and cloud their actual intent.

The Department contends that the regulations would "strengthen the role of state agencies in managing the program," "give states more options in determining services," and "put decision-making closer to the point where services are used." In fact, these regulations would remove the options now available to the states, limit their flexibility in operating programs, and impose new bureaucratic requirements which will hopelessly mire welfare agencies in red-tape and paperwork, at the expense of recipients of the services.

Similarly, the Secretary insists that the proposed regulations give "increased emphasis to services that help people move toward self-sufficiency and employment." In fact, they would so seriously restrict the eligibility for services as to prohibit lasting self-sufficiency and force repeated return to dependency.

Finally, one of the alleged intentions of these regulations is "reducing overlap" with other federally-supported programs. The reality is that there are no alternatives for public support of many of these programs which would be terminated, and in other cases the alternatives which might presently exist are being cut back or terminated by other Administration proposals.

II. ELIGIBILITY FOR SERVICES (221.6 AND 221.7)

The proposed definitions of eligibility and the requirements for constant redetermination of eligibility are too restrictive to accomplish the stated objectives of "self-sufficiency and employment," and they are so cumbersome as to assure the very bureaucratic maze this Administration allegedly seeks to eliminate. In setting a ceiling on social services expenditures and identifying broadly available services, Congress made no effort nor did it indicate any intent to narrow the current definitions of past and potential recipients. The restrictive definitions contained in the proposed regulations administratively eliminate virtually all past and potential recipients from the program, which Congress declined to do.

The limited definition of past recipient to one who has received welfare within the previous three months is too narrow to offer any security or stability to an individual who leaves the welfare rolls, and would in many cases lead to an almost immediate return to dependency. At a minimum, a past recipient should be entitled to services for at least one year, regardless of current income, with the possibility of extending those services for a longer period if they are necessary to avoid renewed dependency.

The definition of potential recipient is even more restrictive. The automatic elimination of services as soon as income exceeds 133⅓ percent of the state's financial assistance payments level, or when resources exceed permissible levels for financial assistance, would arbitrarily exclude individuals and families before they reach a point of "self-sufficiency" and would result in returns to dependency. In many states, these new definitions would make ineligible for services families with incomes below the federal poverty level and even below the state's own defined standard of need. Further, sole reliance on income to determine eligibility ignores the fact that need for services is an equally significant factor in defining a potential welfare recipient. By identifying in the revenue sharing act those services which should be fully available to potential as well as current recipients (e.g., child care, services for alcoholics and narcotics addicts) Congress intended to deal with problems which, in the absence of services, would lead to dependency regardless of income. A fee schedule for services, reasonably related to income, as provided by current regulations, would assure availability of services according to need, while directing the bulk of federal dollars toward lower income groups.

In requiring frequent redetermination of eligibility—every 90 days for past and current recipients and every six months for potential recipients—the new regulations go far beyond the language of the statute, which provides for review of current recipients' service plans at least once a year, with no required review for past and potentials. The proposal would create an administrative nightmare which, at best, would delay services and would almost certainly deny services to many. They would intensify the movement of recipients in and out of services and reinforce the cycle of dependency caused by the narrow eligibility definitions. Further, they would result in new and unnecessary harassment of recipients, and can only be interpreted as intended to discourage eligibles from seeking services. State welfare agencies have already indicated that they are incapable of meeting these requirements.

III. PRIVATE SOURCES OF STATE'S SHARE (221.62)

The absolute prohibition against the use of donated private funds or in-kind contributions arbitrarily eliminates an estimated $150 million in social services expenditures and terminates many of the most effective local programs. While improper uses of such funds should be controlled, an attack on the private sources ignores the apparent major causes of abuse in the program—the refinancing of state and local public expenditures. What is more, it contradicts this Administration's emphasis on voluntary action and public/private cooperation. For example, in the area of day care, the Council of State Governments estimates that the prohibition against private funds will eliminate $55 million in services. Such a cut is particularly ironic in view of the President's own expressed deep concern about "too much" public intervention in child care and his stated personal preference for day care provided through private sources (President's Message Accompanying Veto of S. 2007, December 9, 1971).

The importance of private sources of funds was noted by then-Secretary of HEW Elliot Richardson in a letter to Chairman Wilbur Mills of the House Ways and Means Committee, dated October 13, 1972, in which he urged modification of any legislative history to make clear that the "partnership between private donations and public agencies should be encouraged rather than discouraged." Reading that letter into the Congressional Record, Congressman Burke of Massachusetts engaged in a colloquy with colleagues from the Ways and Means Committee, denying "the impression" that Congress intended to restrict private matching and pointing out that Senate Finance Committee provisions to that effect had been dropped in conference on H.R. 1 (Congressional Record, October 17, 1972, P.10210-11).

IV. OPTIONAL SERVICES (221.5(b)(1))

Contrary to the impression presented by the Department that the proposed regulation would increase the state's options in providing social services, the new limited listing of services restricts choices and prohibits state and local-determination of services programs. The Social Security Act requires that a state must provide a program "for such family services . . . as may be necessary in the light of the particular home conditions and other needs . . . in order to assist such child, relative, and individual to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development." The elimination of certain optional services which have been listed in the regulations in the past plus the removal of authority for the state to provide additional optional services if they are part of their own state plan, prevent the states from carrying out this clear legislative mandate.

For example, according to a special analysis of the Office of Management and Budget, social services outlays for nonemployment-related day care were estimated to be $154 million for fiscal 1974, providing services for 253,000 children. States will no longer have the option to provide such services since such care is no longer listed as an allowable service. Similarly, at least five states have included in their services plans legal services which were clearly allowable under the existing regulations. Since these are no longer included in the list of optional services, such assistance to recipients must be terminated.

Congress clearly did not intend to restrict such services for current recipients, but in fact offered assurances that they would continue (Congressional Record, October 12, 1972, H19767). We recommend that the proposed regulations be modified to include in the list of optional services at least legal services and day care in addition to that defined at 221.9(b)(3), and that a state be permitted to include in its state plan other operional services which clearly meet the needs of eligible individuals. Such plans would continue to be subject to approval by SRS.

V. CHILD CARE

The impact of the eligibility definitions and the elimination of private funds is especially hard felt in the area of day care. Denial of child care to a broader range of past and potential recipients may well be the single most important factor in preventing the "self-dependency" which these regulations purportedly seek. In addition, as noted above, the arbitrary denial of all nonemployment-related day care removes essential services for dependent children and families—denying services to over one-quarter of a million children, according to OMB's own estimate.

In California, for example, according to State Superintendent of Public Instruction Wilson Riles, these regulations will reduce day care funds in the state by $40 million, terminating services for more than 35,000 children, forcing 5,000 teachers and paraprofessionals out of jobs in child care programs, and ending employment for large numbers of working poor and single parents who may well find themselves back on welfare roles. In New York, the City's Agency for Child Development indicates that more than one-half of the 33,000 children now in its day care programs will no longer be eligible, forcing their parents back on to welfare which costs the city two-and-a-half times the cost of day care. Pennsylvania officials estimate that at least 12,000 children will be out of day care if the regulations go into effect. In Minnesota, 50 to 60 percent of the 24,000 children currently receiving services will no longer be eligible, and the state's funds will be reduced by at least $20 million. In Minneapolis, more than 60 percent of the children receiving services will no longer be eligible, and at least 95% of the $2 million spent for day care will disappear. St. Paul will lose up to $1,212,000 in day care services. Maryland officials predict that half of the 12,000 children presently served will be evicted from day care centers around the state.

Beyond this absolute reduction in the amount of day care provided and the number of children served, the proposed regulations placed additional restrictions which will undermine the quality of that care which would be provided for the much narrower group of children who would continue to be eligible. The proposed regulations eliminate all references to federal standards for child care, other than the most inadequate requirements for in-home care. Departmental assurances that federal standards "will apply" at some indeterminate time in the future when "suitable" ones have been written are not sufficient guarantees of program quality for children.

Congress has made it clear that federal standards do apply to all federally-supported child care and that those standards do apply to all federally-supported child care and that those standards may be "no less comprehensive" than the Federal Interagency Day Care Requirements of 1968. While Congress has recognized the necessity for modifying those requirements from time to time, Chairman Carl Perkins of the House Education and Labor Committee emphasized that the Congressional intent of adding language to the extension of the Economic Opportunity Act in 1972, was to prohibit changes which would reduce the quality of care required by the federal standards, particularly with regard to child-staff ratios (Congressional Record, September 5, 1972, H8056). We urge that the proposed regulations be clarified to indicate that the Federal Interagency Day Care Requirements of 1968 do apply, as required by law, in order to avoid any confusion on this point.

While the indefinite status of federal standards causes concern about the quality of care to be provided, there are other provisions in the proposed regulations which clearly reduce that quality. By prohibiting federal financial participation for any "subsistence and other maintenance assistance items even when such items are components of a comprehensive program of a service facility" (221.53(j)), and by removing all references to food and food preparation costs as allowable expenditures, the proposed regulations eliminate payments for food and all of the costs associated with preparing and serving food in day care programs. Such language suggests that either day care operators, including operators of family day care homes, will have to pay such costs out of their own resources or that children in such programs will be required to provide their own food. This would almost certainly deny nutritional meals to children, most of them already in or near poverty, during the time they are in day care programs. This language should be clarified to assure that food and food-related costs in day care programs will continue to be eligible for federal funds.

The proposed regulations also drastically reduce parent involvement in their children's day care programs, contrary to the 1967 Social Security Act Amendments. The President has taken a strong position that federally-supported child care programs must not "diminish . . . parental authority and parental involvement with children" (President's Message Accompanying Veto of S. 2007, December 9, 1971). Yet, current requirements that parents be involved in the choice of care and that the care be suitable to the needs of their children have been eliminated. Further, while day care advisory committees would be retained at the state level, there would no longer be any requirement that one-third of their membership be drawn from the parents of children receiving services. Parent committees have been influential and constructive in a variety of HEW programs, including not only social services but Headstart and Elementary and Secondary Education Act programs as well, and there has been no suggestion by the Congress that they be eliminated.

In addition, states no longer would be required to extend or improve services, to develop alternative sources of services, or to mobilize resources to provide services.

We urge that the regulations be modified to restore parent participation in child care programs and to require and provide inventives to states to expand available sources of day care.

VI. FAIR HEARINGS

Current regulations attempt to protect the rights of recipients of services by making provision for a fair hearing under which applicants or recipients may appeal denial of or exclusion from services, failure to take into account recipient choice of services, or a determination that an individual must participate in a service program. Those rights have been removed by the proposed regulations in violation of both the statutory requirement for fair hearings and the constitutional requirement of due porcess of law, which applies to the denial of services as well as cash assistance.

STATEMENT OF HON. BO GINN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. Chairman, I would like to urge the Committee today to take immediate action to prevent the implementation of the recently proposed changes in the rules relating to Title IV–A and Title XVI funds.

In my judgment, the day these rules are put into effect will be recorded as the balckest day in the history of our nation's efforts to extend a helping hand to people who cannot help themselves.

Specifically, the new restrictions written into the regulations would cut or seriously reduce programs in my District involving child care, family planning, services for the retarded, foster care and services for drug addicts and alcoholics. This would take place because the most effective programs to help the poor are established by private citizens and depend on private donations to make up the local matching funds under the Social Security Act.

Under the new regulations, this private contribution would be prohibited and the programs would be forced to close.

And it would take place because the new regulations would restrict services to families of four below an income level of $2,448 instead of the former level of

$6,086. This means that poor people who are struggling to make a living at a low income job will lose eligibility for many social services, and without that support they will be forced out of their job and back on welfare.

I urge the Committee to take legislative action to prevent the implementation of the new regulations, or, if they go into effect as scheduled, to insure that the old regulations are restored retroactively.

Mr. Chairman, I would like to meet the man who drafted the new HEW regulations because I would like to introduce him to some constituents of mine.

I would like him to meet the infant boy who enrolled at the "We Care" Center in the City of Swainsboro at the age of two.

His mother was in a state hospital, his father was struggling to support a family of five. He had been kept in a box by his older brothers and sisters during most of his two years of life and could not walk or even crawl.

The child was destined to go through life emotionally retarded, unable to take care of himself and forgotten by society. Today, at age 4, he is perfectly normal thanks to the "We Care" Center.

Mr. Ray Brown, the Director of the Center, plans now to close his doors at the end of the month. He says that 50 working mothers with children in his program will be forced to quit their jobs and go on welfare.

He told me, "We've tried to teach pride and the dignity of work All of our people are working. We are doing what we thought we are supposed to do. Now they are headed back to welfare."

I would like the bureaucrat who wrote the regulations to meet the 185 low income children enrolled in the Learning Tree Academy in Brunswick and the Camden County Day Center, the only two day care programs serving low income families near Brunswick. Both schools would probably be forced to close under the new regulations and the mothers of the children will be forced on welfare.

I would like the author of the new regulations to meet the 37 children at the Windy's Play Skool in Savannah who will lose their day care services and whose mothers will also be forced on welfare.

I would like the author to meet the young people at the Savannah Children's Center, the poor people served by the Savannah Legal Aid organization, and the Greenbriar Home and the Chatham County Retarded Children's Association who will have to be turned away because of the new rules.

I would like the author to meet the children and adults of the High Hope Center for the Retarded in Bulloch County, one of the most remarkable and effective centers of its kind in my State. About 75 percent of the persons in the Center will be turned away because of the new regulations.

I would like the writer of the new regulations to meet 602 Savannah Model Cities residents who will lose vital social services because of the changes.

And I would like the writer to meet the 70 retarded persons who will lose their eligibility for federal funds under the new regulations and so will be turned away from the Glynn County Training Center.

Mr. Chairman, I would like the writer to meet all of these persons who face the prospect of being locked away from the chance of a better life that most of us take for granted.

I would like the HEW bureaucrat who wrote these regulations to look straight into the eyes of a retarded child who is about to be turned away from the only care available in his community that can give him a chance for a decent life.

I would like the bureaucrat who wrote these rules to look into that child's eyes and tell him to take his problems and go to hell because the federal government of the most powerful nation on earth has decided it does not want to help.

I believe that our nation is bigger than that, and I believe this Congress cannot and will not permit the destruction of the useful lives of these needy people. I do not believe we can preside over the demise of programs that keep mothers off of welfare and retarded children from being lost in the darkness of their disability.

I urge the committee to move forcefully in this area, and I pledge you my support.

EAST SIDE NEIGHBORHOOD SERVICE,
Minneapolis, Minn.

Mr. CASPAR WEINBERGER,
Administration Social and Rehabilitation Services, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. WEINBERGER: The proposed revisions of the Title IV–A Social Service Regulations, if enacted, will prove disastrous for the Child Development Program of East Side Neighborhood Services, Inc., Minneapolis, Minnesota.

We are a non-profit social service agency serving 86 children in two day care centers. The children are ages 3–6 with a small unit of 1–3 year olds. Currently, about 50% of the parents are working or in training and receive a supplementary AFDC grant. The remaining 50% of the parents fall into the "potential" category. Of this latter group, all qualify on the basis of income and most are working or in training. The exceptions relate to children with diagnosed special needs.

Considering only the adoption of the proposed eligibility changes will mean that only 50% of the current recipients of service will remain eligible after March 31. *An estimated 43 of our families will not be eligible.* Of the non-eligibles, 10 will not qualify on the basis of special need of child. The 33 remaining ineligible families have income above the 133⅓% of AFDC standards. *Many of the families in this group may be forced to apply for assistance if subsidized child care through Title IV–A is not available.*

One such parent, a divorcee with one child, is working fulltime in a factory and ekeing out a modest income. She has never applied for public assistance, is very conscientious and recently returned to evening University Extension courses to complete work on an interrupted degree. This parent is unable to pay the going rate for proprietary or family day care nor does she have transportation to the nearest proprietary center over twenty blocks away. (Our program provides this parent daily transportation for her child). Lack of adequate day care may force this parent and child onto the AFDC rolls, or her child into an unsatisfactory custodial day care situation.

Another parent has her child enrolled because she cannot cope with his disturbed behavior, the result of a disturbed relationship between the two. The teachers and social worker are seeking to help the child overcome his behavioral handicap and establish a basis for a mutally satisfactory family life for this mother and child. Elimination of children with special problems may mean that situations like this may end up in the courts as a protection case and possibly then a succession of foster homes or other institutions—all at great cost to the public and at the jeopardy of a meaningful life for the child.

Elimination of Interagency Regulations would reduce or eliminate that critical margin of staffing needed to go beyond a strictly babysitting service and which are critical to offering a range of health, social and family life services.

Our child care program receives its local match from the United Way. This arrangement was arrived at two years ago when the Federal government seemed interested in working with the non-profit private sector to accomplish social goals. If the proposed Title IV–A regulations are adopted, private United Way monies can no longer be used as match money. What is the rationale for such a regulation other than a rulemaking technique intended to cut the amount of IV–A monies spent? If the proposed regulations stand, our program may be forced to close its doors April 1. In our view this would be a tragic loss of resources to this community and can only contribute to anger and frustration on the part of people whose lives are once again thrown into chaos. In our opinion the proposed regulations discourage individual initiative. Can this be what our government really intends?

The fact that these proposed regulations may go into effect in a matter of weeks leaves virtually no time to seek funding alternatives at the state or local level and certainly does not promote an orderly retrenchment or disbanding of program as the case may be.

We also have other areas of concern. The reassignment of employment related child care from the mandatory to the optional service category in State Plans and the extremely narrow definitions of past or potential recipients are clearly meant to eliminate large numbers of current users of service. Many of these families will end up on welfare. It has been estimated that in Minnesota alone increased AFDC costs will come to $2,350,000.

These proposed regulations are based on a very narrow conception of Federal responsibility for the health and welfare. Many of the optional services, which are undeniably essential for certain groups, will go unfunded or under-funded. State and urban counties which raised taxes to provide optional services may invite in-migration of needy families.

The proposed regulations, requiring more frequent certification of eligibility, promise to drain off more money for administration with less going for services to people. While the President has chided Social Welfare programs for benefiting administrators more than recipients, he then proposes rule changes that will institute greater administrative fat and inertia. What can be the rationale for such a proposed regulation?

We object to the elimination of the requirement that child care must be suitable for the individual child and that the parent must be involved in the child's care source.

We strenuously disagree with the administration's impoundment of social service funds. It is a punitive policy which attempts to balance the budget by squeezing hardest those least able to pay.

We urge that you apply the power of your office toward achieving the following goals:

1. Recind the impoundment of social service funds. Restore the $2.5 billion social service expenditure ceiling set by Congress.
2. Withdraw the proposed social service regulations.
3. If any changes are to be recommended, we urge consideration of a realistic sliding scale.

Your positive response to the three recommendations will be greatly appreciated.

Sincerely yours,

William S. Seeley,
President, Board of Directors, East Side Neighborhood Service, Inc.

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